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THE

RESOLVES

OFTHE

COMMITTEE

APPOINTED TO TRY THE

MERITS of the ELECTION

FOR THE

COUNTY OF GLOCESTER,

In the Year 1777;

GEORGE BERKELEY, Eso. Petitioner;
WILLIAM BROMLEY CHESTER, Esq. Sitting
Member.

LONDON:

PRINTED FOR JOHN STOCKDALE,

OPPOSITE BURLINGTON-HOUSE, PICCADILLY:

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ADVERTISEMENT.

THE authenticity of the RESOLVES is, perhaps, the chief merit of the following pages—they are faithfully extracted from manuscript notes of the proceedings of the Committee which tried the merits of the election for the county of Glocester, taken at the time by Sir Cecil Wray, the chairman.

If, at a period when so many elections are to be contested before the tribunal established by Mr. Grenville's act, the publication is of any utility, the editor will receive full satisfaction.

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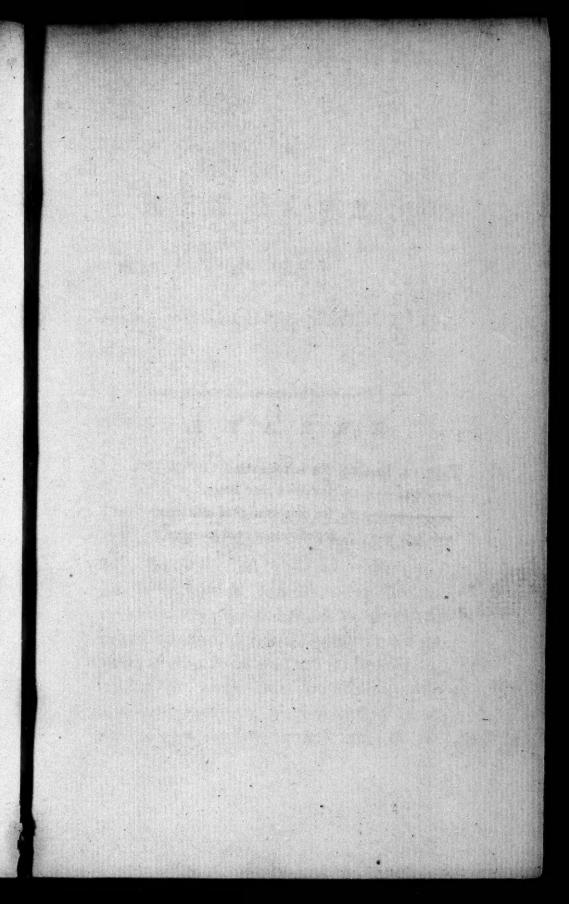
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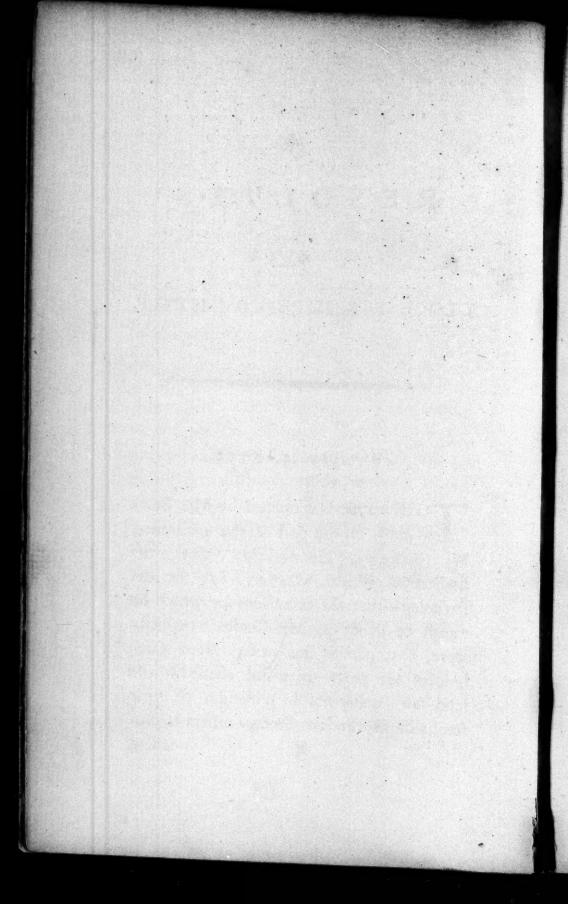
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RESOLVES

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OF THE

GLOCESTERSHIRE COMMITTEE.

- and others for different go this grions.

February 5, 1777.

was read by the chairman to the parties,

THE cause was opened by Mr. Bearcrost, on the part of the petitioner,
Mr. Berkeley. He observed, that 2920
had polled for Mr. Chester, 2873 for Mr.
Berkeley—that the objections by which he
meant to strike off Mr. Chester's majority
were, that part of his voters were leaseholders for years—part not affessed to the
land-tax—many not in possession of their
freeholds as the law directs—others as posB session

sessing freeholds under the value of forty shillings per annum—others as having annuities not registered—and many as paupers.

That he also meant to add votes to the petitioner's poll, who were rejected at the election as copyholders—others as paying the land-tax, though not personally rated—and others for different qualifications.

The committee adopted a rule, which was read by the chairman to the parties, that a witness, having been in court during any part of the cause in which he was to give his testimony, was thereby rendered incompetent.

The chairman also read another rule to the counsel, that, in ordinary cases, one counsel on a side should plead; in extraordinary ones, two.

The chairman asked of the committee what line they meant to adopt in respect to secrecy—that it had been a rule in some committees for the members to be upon honour not to disclose any gentleman's opi-

nion -

1 1977 And the first that the same of Library Committee of the Committee of th The same of the sa the state of the s Control of the second second second second second named the second of the second

In this Case of Loscombes, one Wom Shore Clerk to M. Symonds one of Mr Berkeley's Agents produced a paper which he say'd was a Copy of a Lease from Mr. Chester: that it was taken by the Witness from a Deed in his Masters Ofice, which he understood to be the Original Lease by its being executed by Mr. Chester.

 nion—he had always objected to this, as far as related to himself, not choosing to be answerable to the world for decisions to which he had given his negative—but would be on honour not to disclose the sentiments of others. This was adopted by the committee; but, three or sour days afterwards, Mr. Finch informed them, that the opinions of several gentlemen had some way escaped—that himself had been publicly accused as Lord Berkeley's enemy—and therefore moved, that every member of the committee should be at full liberty to declare any member's opinion, if he chose to do so.

This was unanimously agreed to, each one saying, that, as his vote was given through conscience, not partiality, he did not care if the whole world knew it.

JOHN RUSSEMBE. Objected to as not a freeholder.

A paper was offered in evidence, faid to be the copy of a chattel-lease, on which B 2 was taken from an original in Mr. Symonds' (Mr. Berkeley's attorney) office.

This was objected to, as there was no proof that the deed from which it was copied was a true deed, and that the lease and land contained in it were in the possession of the lessor or lesses.

It was answered, that the best evidence was certainly the lease itself; but, if that could not be come at, the next best evidence should be admitted—that notice had been given to Mr. Chester, and to the voter, to produce the lease, but there was no power to compel it from a mortgagee or third person.

In reply, it was observed, that, in the present case, the only proof of the lease was, that a person said he saw a parchment purporting to be a lease, which he copied—but it ought to be proved that the lease was signed.

Mr. Symonds was called on to prove the original lease, but objected to, as having been present in court.

Resolved,

M. Symond's Evidence was to this Effect. That in the course of his enquiry into the Rights of the Voters in Saint George's Parish, he learnt that the Lease of the premes for which In. Lox combe Voted was in the Hands of In! Tippet a Mortgage. That the Witness applied to Tippet who furnished him with the Lease on his giving a receipt to redeliver it. That the Witness rederlivered it accordingly after his Clerk had made a Copy of it.

Upon his X examination he say'd Mr. Tippetts told him it was an Original Lease. The Question was whit upon this Evidence the Copy sho? be admitted in Evidence.

Commer resolved as above that it should not.

Refolved, nem. con.

THAT MR. SYMONDS, THOUGH PRE-SENT, BE EXAMINED AS TO THE LEASE.

Mr. Symonds not being able to prove the original lease, it was again argued to admit the copy.

Moved,

sanif

THAT THE COPY OF THE LEASE BE ADMITTED IN EVIDENCE.

Ayes 3.

W. Pelham, Mr. Cleveland. Sir W. Cunynghame,

Noes 12.

Sir Cecil Wray,
Mr. Johnson,
Mr. Halliday,
Mr. Elwes,
Mr. Morant,
Mr. Powys,
Mr. Penruddock,
Mr. Phelips,
Mr. Finch,
Mr. Brand,
Mr. Owen.

B₃ JOSEPH

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JOSEPH BATMAN. Objected to as no freeholder.

The witness produced declared he had no communication with the voter, but as his attorney.

This was objected to as inadmissible evidence, as he must disclose the secrets of his client.

To this it was answered, that confidence does not necessarily follow from a client to his attorney, especially if secrecy was not asked at the time.

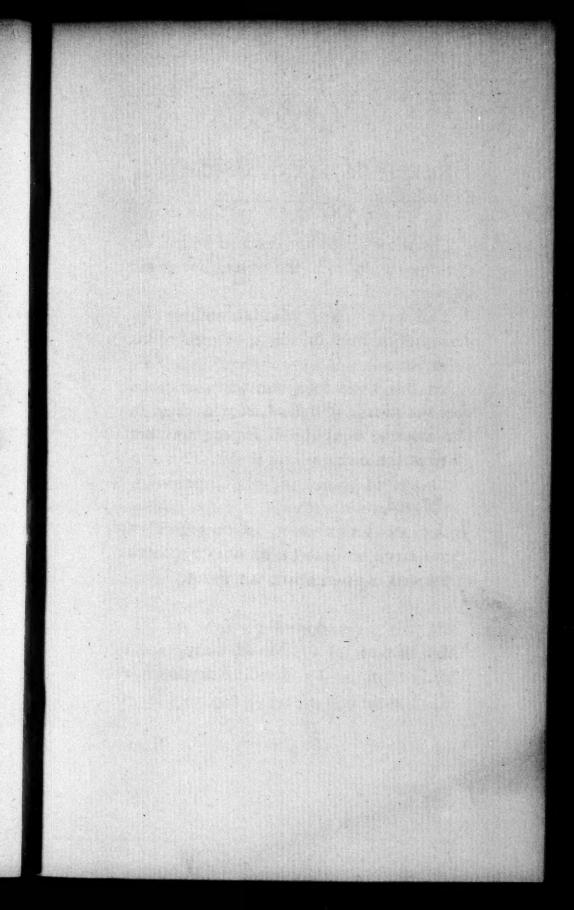
Moved,

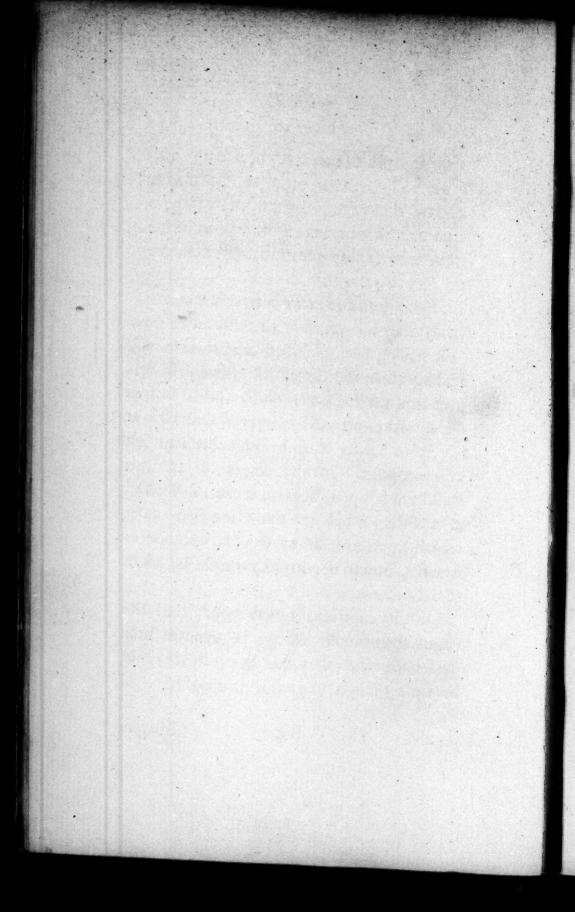
THAT AN ATTORNEY IS COMPETENT TO GIVE EVIDENCE OF WHAT COMES TO HIS KNOWLEDGE AS SUCH.

Ayes 5.

Mr. Morant, Mr. Halliday, Mr. Powys, Sir G. Robinson.

Mr. Owen,





Noes 10.

Sir Cecil Wray, Mr. Finch,

Mr. Elwes, Mr. Penruddock,

Mr. Johnstone, Mr. Cleveland,

Mr. Phelips, Mr. Brand,

Sir W. Cunynghame, Mr. Pelham.

February 6.

CAUGE WATEROUT ERAVE TROM

It having been observed, that the counsel, finding their desiciency of evidence in respect to a voter, (as no decision could immediately take place,) thought themselves at liberty to bolster it up by adducing new on a suture day. In the courts of law this could not happen, because a cause is sinished at a sitting; but in the Glocester cause, which in all probability would continue for months, much opportunity might be taken to sabricate it.

On the contrary, it was urged, that the committee should always be open to hear evidence: when they had heard it, it would be time enough to give it its weight.

Moved,

THAT THE COUNSEL BE ACQUAINTED THAT IT IS THE OPINION OF THE COMMITTEE, THAT HAVING GONE THROUGH THE EVIDENCE RELATING TO ANY PARTICULAR VOTE, NO FRESH EVIDENCE SHALL BE PRODUCED ON THAT VOTE IN THE COURSE OF THE CAUSE, WITHOUT LEAVE FROM THE COMMITTEE.

Ayes 7.

Sir Cecil Wray, Mr. Powys, Mr. Finch, Mr. Elwes, Mr. Halliday, Mr. Phelips, Mr. Penruddock,

Noes 8.

Sir G. Robinson, Mr. Johnstone,
Mr. Brand, Mr. Pelham,
Mr. Owen, Mr. Cleveland,
Mr. Morant, Sir W. Cunynghame,

JAMES

with the wife of water at the last of the state of the Sand of the second and the say of the second The second of th The transfer of the second states of the proper was a second The man have a first the second of the secon · Not the state of Control of the control of the form of the control of the control of Walter the second of the secon many the transfer and a vigar and the second of the second

A. 43. 80

The following is the Evidence given in Sweets Case.

1. James Shore produces an Attested Copy of a Lease between Mr. Chester & James Sweet, with he says he exam? with a Deed in Mr. Symonds's Office purporting to be an original Open.

Mr. Symonds then proved that such Deed was brought to him from a Mr. Bateman a Mortgagee of ye primes for him to make a Copy of it. On his X exam! he say's Mrs Bateman did not tell him she was mortgagee, but that the person who brot the Deed from her told him so.

Then Jacob Riddle was called who say't he was Trus-- Tec to Wm Bateman who was dead I that ut Voter Montgaged his Estate to Wm Bateman, & that ut Witness had the Deed delivered to him by IN's Bateman & carried it to Mr. Symonds.

X cram", He say'd he knew the Voter had Montgaged to Bateman, for that the Voter had paid Interest Money on such montgage to the Witness.

Observation .

As here was no acknowledgemt from the Voter of his Deed being in a Montgagees Hands, and as the Montgagee did not appear as an Evidence, I apprehend the Committee would not have suffered the Copy to be read if Riddle had not brot it home to the Voter by proving that He had reced Interest of the Voter under the Montgage.

JAMES SWEELS. Objection, no freeholder.

The voter had mortgaged his estate the mortgagee sent the deed to Mr. Symonds, who had it copied—the copy was offered in evidence—the possession brought home to the voter.

Moved A STATE OF THE STATE OF T

THAT THE COPY BE ADMITTED IN EVIDENCE.

Series of the land of

Ayes 9.

Sir Cecil Wray, Mr. Cleveland, Mr. Pelham, Sir G. Robinson, Mr. Brand, Mr. Halliday, Mr. Owen, Mr. Johnstone. Mr. Morant,

Noes 6.

Mr. Finch, Mr. Phelips, Mr. Penruddock, Mr. Powys, Sir W. Cunynghame, Mr. Elwes.

week organishman or Sympalicanis of

anidosen-

JOHN

JOHN INNALL. Objection, no freeholder.

A deed was produced of the voter's eftate being a lease for 990 years. One witness was dead, but his hand proved; the other witness was unknown.

Objection taken to this deed being produced in evidence, as due diligence had not been used to find out the living witness, and therefore they ought not to proceed to prove the hand of the other.

It was answered, that there being no defeription of the witness on the deed, they could not tell where to seek him, and the voter himself would not certainly help them to evidence against himself.

Refolved, nem. con.
THAT THE DEED BE ADMITTED IN EVIDENCE.

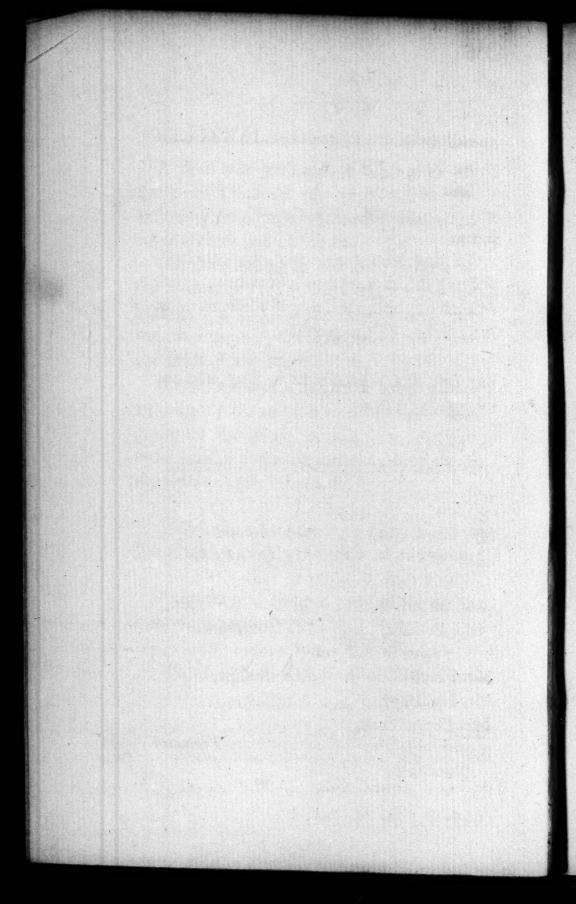
The voter not being a party to the deed, it was fet aside.

A. 49. RICHARD POPE. Objection, no freehold.

A will was offered as evidence be-

The Will of Win Relves dated 6. Teb 1730 was produced by with it appeared that certain Lands at Compton Greenfield were devised as Leasehold for years to Testors Grandfon Joseph Isles.

Guy Pope say's he knew the premer voted for . That he had known them fifty years, That they did belong to lom Reeves; & that y' witness remembers them coming after his Death to his Grandson Joseph Isles - That Joseph Isles sold to Richard Pope the Voter.



queathing lands to one Reath for a term of years. The Reading this will

This was objected to, as no connection was first proved betwixt the voter and Reath. Wim Newes the Testator

To this it was answered, that the will proving the lease, and possession being proved under it, brings it home to the voter now in possession of the premises.

In reply it was urged, that the voter's purchase should be proved by deed, and not by parole evidence.

Moved,
THAT THE WILL BE ADMITTED IN EVIDENCE.

Ayes 10.

Sir Cecil Wray, Mr. Morant,

Mr. Powys, Mr. Cleveland,

Sir W.Cunynghame, Mr. Owen,

Mr. Brand, Sir Geo. Robinson,

Mr. Pelham, Mr. Johnstone.

Noes 5.

Mr. Finch, Mr. Phelips, Mr. Halliday, Mr. Elwes.

Mr. Penruddock,

February

February 7.

Mason

THOMAS MANN. Objection, no freehold or not in the netual population or Rect of the Rents. hold profits of the letate for his own lise above 12 Calend. months before the Election", A witness attempted to prove that he had

A witness attempted to prove that he had purchased the estate himself, and had received three quarters rent before the election.

It was objected, that the witness ought to have proved the purchase by the deeds, and not rested it on the occupation.

N. B. Conversation cannot be given in evidence when the voter is not present.

The committee did not make a decision on this vote, but seemed perfectly inclinable to allow this vote.

JOHN THOMAS, Objection, no free-SAMUEL THOMAS. hold.

The voters father had left by his will the premises for which he voted to their mother during her widowhood, and no longer,—or.

The Fact certainly was that the Voter had sold the Premises voted for & executed a Conveyance thereof, to one Rolt. Somes the Witness before the Olection.

But the Proof given seems to have been properly considered by the Committee as totally insufficient.

The Devise in the Will of Sam! Thomas the Sather of the Voters is not accurately Stated It was as follows (Viz) "to his Wife Sarah during her Widowhood or Natural Life, and "after her Decease, to his two Sons the Voters 4 their Aeirs "equally between them".

The Testators Widow some years before the Election Married with one William Webb.

Whether her Interest under the above Devise ceased upon her ceasing to be a Widow, or was to continue during her Life?

2. Supposing it did so cease, Whether the Devise over, then took place, Or whether as the Words of it are "after her Death" (without mentioning second Marriage) it could take Offect in possession till her Death?

And it is obvious from the Resolutions the Committee came into, that they considered (and as it appears to me rightly) the Interest of the Wife to cease on her second Marriage: But that the Rem? over could not take I theet in possession till her Death. The consequence of which must be, that in the meantime the Estate descended to John Thomasas their at Law to the Testator, who as certainly had as his Brother Samuel had not, a Right to Vote for it.

for her life. The widow being married to a fecond husband, it was contended that her term in the estate was expired, and, consequently, the voters right to the freehold had commenced.

The petitioner's counsel contended, that, as there were two limitations in the will, it was competent for the widow to take either.

It was answered, that the will expressing a second marriage, which must be prior to her death, must mean to confine her to that period, if it should so happen: otherwise, this part of the will could have no effect; and, by the true construction of a will, every part of it should have a force, if not contrary to another part.

That, if a deed gave to a person an estate for 99 years, if he should so long live, yet it was necessary that it be a freehold before a contingent remainder could be granted—that this could not be till after the determination of the present estate, as determined in the King's Bench.

That the true construction was to the wife

for her widowhood; then to devisees, if ate gued from such determination; but certainly to the eldest son John Thomas, if a dispute whether the will shall take effect at that period as to the remainders.

It was replied, that restrictions in wills are often fet aside, as only hung out in terrorem; as in forfeiture on the marriage of children, &c. &c.

This case is to be construed in the same way—the words are not repugnant to those which give her the estate for life. However, by the words of the will, it can only come to the devisee Samuel Thomas, the second son, on the death of his mother.

Moved,

THAT JOHN THOMAS, AS HEIR AT LAW TO HIS FATHER, WAS INTITLED TO VOTE AT THE LAST ELECTION.

Ayes 8.

Sir Cecil Wray, Mr. Phelips,
Mr. Finch, Mr. Halliday,
Mr. Powys, Mr. Elwes,
Mr. Penruddock, Sir George Robinson.
Noes

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Noes 5.

Mr. Cleveland, Mr. Morant, Sir W. Cunynghame, Mr. Johnstone. Mr. Owen,

Moved,

THAT SAMUEL THOMAS WAS INTITLED TO VOTE AT THE LAST ELECTION, BY HIS FATHER'S WILL, ON THE SECOND MARRIAGE OF HIS MOTHER.

Aye 1, Sir Cecil Wray. Noes 12.

N. B. These resolutions were moved at the time Mr. Chester was in the course of re-establishing his votes; and as Mr. Brand had then quitted the committee, there only appear 13 members voting on them, though at the first agitating the question the committee consisted of sourteen. They are inserted in this place, (as others in the same predicament will be,) to avoid references.

It having been observed that the parties

had indeed agreed that the agents on both fides might remain in court, but being often called on as witnesses, this gave them an improper opportunity of bolstering up the evidence where it was weak: it was, therefore,

Refolved, nem. con.

FROM EXAMINING ANY AGENT TOUCHING ANY PARTICULAR VOTE, WHO
SHALL HAVE BEEN PRESENT IN COURT
DURING ANY PART OF THE TIME THAT
SUCH VOTE SHALL HAVE BEEN UNDER
DISCUSSION, EXCEPT AS TO PROVING
THE EXECUTION OF DEEDS OR WRITINGS OF ANY KIND.

February 8.

Mr. Pelham was absent.

Monday, February 10.

Mr. Pelham still absent. The committee adjourned. The chairman reported his absence

the allowed the leading to the attendance of the said

Light for the second section of the second section is

fence to the house. The surgeon attended the house, and testifying his illness, the house excused him, and gave power to the committee to proceed without him.

The committee being now reduced to 14, the chairman observed to the committee, that, as probably some questions might have an equal number of votes, and as he thought the power of giving two was too much for any man on such questions, he hoped he might be excused giving any.

This was objected to by the committee, as the party for whom he should decide had a right to his vote.

February 1 1.

JOHN EASTON. Objection, not in possession of the rents and profits.

The voter had entered into articles with one Rawlins to fell him his estate, who not approving the valuation, the articles were never carried into execution.

C

Rawlins

Rawlins being called as an evidence, he was objected to, as it would be admitting him to prove his own title.

It was answered he could not be a witness to prove his own title, but only as to the possession of the premises in respect to the voter.

Moved,

THAT RAWLINS BE ALLOWED A COMPETENT WITNESS.

Ayes 10.

Noes 4.

Sir Cecil Wray, Mr. Phelips, Mr. Powys, Mr. Penruddock.

STEPHEN HARRIS. Objection, no freehold.

The first evidence produced was an attorney. It was objected, that he was making evidence of what was entrusted to him in secrecy by his client.

It was argued in favour of the witness, that,

Harriss Case was this. He had lived for the space of 18 on 14 years with one laith Wasborow. To whom some of the Neighbours thought him to be married. whilst others thought differently: And indeed the latter was the most prevailing opinion However, Harris from y' time of his first connexion with this woman had constantly acted as owner of the estate Voted for: And was rated for it in his own hame, The Petitioners Councel to disqualify Harris by proving the Estate to belong to Edith Wasborow, I that they were not Married, proposed producing M. Perry an Attorney to give an Account of his having been employed by the Poter & Mijs Wasborow in proceeding a sum of money on mosting age of this I state; and that the mostgage was executed by the latter only, who is therein called Edith Wasborow Spinster.

The state of the second state of the second to

Observation as to Attorneys. If the Attorney acquired his Knowledge otherwise than as being conserned for his Client in Business, he was permitted like any other person to give Ividence to impeach the Clients Vote. For instance suppose an Attorney to be employed by A in the purchase of a Seaschold Istate, now though he would not be permitted to give in Ividence what what came to his Knowledge in consequence of being so employed, for the purpose of impeaching A's Vote, yet if the Attorney in the Capacity of Agent for the Person against whom A voted, went afterwards to A. to enquire about his Vote, and A either delivered to him a permitted him to take an extract from the Deed, this Deed or Extract with the Voters acknowledgment may be given in Cidence against A. by the Attorney, as happened in a variety of Instances during the Sitting of the Committee.

_ See Sharp's Case 102

If in the Case above Supposed B was the person that Sold the Leash chold to A, B's Attorney (if he was not also the Attorney of A. in that particular transaction) would I apprehend be permitted to impeach A's vote by giving in Evidence, Matters which came to his Knowledge from being Concern'd in Making out the Abstract of the Title 4:40

And it seems the Attorney of A would not only be permit. ted but even compellable to be examined to prove the more execution of the Deed under which A claimed, though the had been concerned for A in the preparing that Deed; or to prove the true time of Crecution. For these are Facts of his own Sinowledge, It of which he might have had Knowledge without being Attorney, Lord Sayt Seals Case Mich's 10 Ann - Per Su O Bridgman with advice of all the Judges. Bullers L. h: p 280

that, in Lord Foley's case, the attorney was permitted to relate conversation which passed betwixt himself and client—that in the criminal law it is constantly the practice to produce them—that, though he cannot be compelled to give testimony, yet, if willing, may accuse himself, much more a stranger.

It was answered, this is the privilege of this contrary to the client, that he may be enabled to trust Law to permit a person of knowledge to assist him; if any Person to otherwise, it might be extremely detrimental with which the to the peace and welfare of families—that ka him. Lind even in criminal cases attornies were not for 12. Geo. 1. called to matters intrusted to them in pre-1tr 140—paring their clients desence.

B: Law-

That, in the Taunton election, a conver
fation was offered which passed betwixt a

witness and counsel—this was objected to,
as it would not have been heard from the

counsel himself; to which the court agreed.

Moved,

THAT AN ATTORNEY, THOUGH WILLING, SHALL NOT BE PERMITTED TO GIVE IN EVIDENCE SUCH MATTER AS SHALL COME TO HIS C 2 KNOW-

KNOWLEDGE OFFICIALLY IN CONFIDENCE FROM HIS CLIENT.

Ayes 12.

Noes 2.

Mr. Johnstone, Mr. Powys.

The same question had been decided on the first day's hearing, but the question, being negatived, was not inserted in the clerk's minutes. The committee, therefore, permitted the counsel to re-argue it.

February 12.

Moved,

THAT THE PARTIES SHALL BE AT LIBERTY
TO ADDUCE FURTHER EVIDENCE TENDING
EITHER TO THE DISQUALIFICATION OR ESTABLISHMENT OF VOTES IN THE FIRST BOOTH,
DURING THE TIME THAT THE VOTES IN
THAT BOOTH SHALL BE UNDER CONSIDERATION; BUT THAT, IN ANY OTHER BOOTH,
NO FRESH EVIDENCE SHALL BE PRODUCED

AFTER

ENVIRONMENT the class of the southern than the land The investment of the second of the AUNT AND A

grico branco como para los como como especial de la como especial de la como especial de la como especial de l

AFTER ANOTHER VOTE SHALL BE PRO-CEEDED ON.

Ayes 6.

Mr. Halliday, Mr. Phelips, Mr. Penruddock, Mr. Owen, Sir W. Cunynghame, Mr. Powys.

Noes 8.

Sir Cecil Wray, Sir. Geo. Robinson, Mr. Elwes, Mr. Cleveland, Mr. Brand, Mr. Johnstone, Mr. Morant, Mr. Finch,

Moved,

THAT, HAVING GONE THROUGH THE EVIDENCE RELATING TO THE OBJECTED VOTES IN ANY PARTICULAR BOOTH, NO FRESH EVIDENCE SHALL BE ADDUCED ON SUCH VOTES IN THAT BOOTH.

Ayes q

Sir Cecil Wray, Mr. Phelips,
Mr. Elwes, Mr. Finch,
Mr. Morant, Mr. Powys,
Mr. Halliday, Mr. Penruddock.
Sir W. Cunynghame,

C₃

Noes

Noes 5.

Sir George Robinson, Mr. Johnstone, Mr. Brand, Mr. Cleveland. Mr. Owen,

N. B. The difference betwixt this motion and the preceding one confifts in the first booth being excepted in the first and not in the last.

WILLIAM JONES. Objection, no freehold.

A witness had a deed in his pocket relating to this vote, but asked of the committee if he was compellable to produce it.

Objection was taken that he was an agent, and therefore ought not to be compelled fo to do.

It was answered, that, if a person is subpoena'd who has deeds in his possession, he must produce them, otherwise must give parole evidence of their contents, which is not the best evidence.

The committee recommended it to the witness to produce them; but he persisted

The Fact is, that ye premes Noted for were conveyed to Trustees (of which the witness John Player was one) to the Separate Use of the Noters Wife.

After this Resolution was Negatived, In Player was again called and examined as to the Uses to which the premes roted for were Conveyed to him & his Co Trustee.

in his refusal, without a compulsive order from the committee.

The chairman declared that he never had nor would give an order for the production of deeds—that he did not apprehend such power was vested either in him or in the committee. Several members were of a different opinion, depending on the order of the house giving power to send for PERSONS, PAPERS, and RECORDS. The chairman's opinion was, that this order respected only PUBLIC PAPERS AND RECORDS.

Moved,

THAT, THE WITNESS HAVING ACQUAINTED THE COMMITTEE THAT HE HAD A DEED IN HIS POCKET, LEFT WITH HIM AS TRUSTEE OF A MARRIAGE SETTLEMENT, BUT REFUSING TO PRODUCE IT WITHOUT ORDER OF THE COMMITTEE, THE WITNESS BE ORDERED TO PRODUCE THE SAID DEED.

Ayes 4.
Sir George Robinson, Mr. Owen,
Mr. Halliday, Mr. Powys.

C 4

Noes

Noes 10.

Sir Cecil Wray, Mr. Finch,
Mr. Elwes, Mr. Morant,
Sir W. Cunynghame, Mr. Brand,
Mr. Penruddock, Mr. Cleveland,
Mr. Johnstone, Mr. Phelips.

February 13.

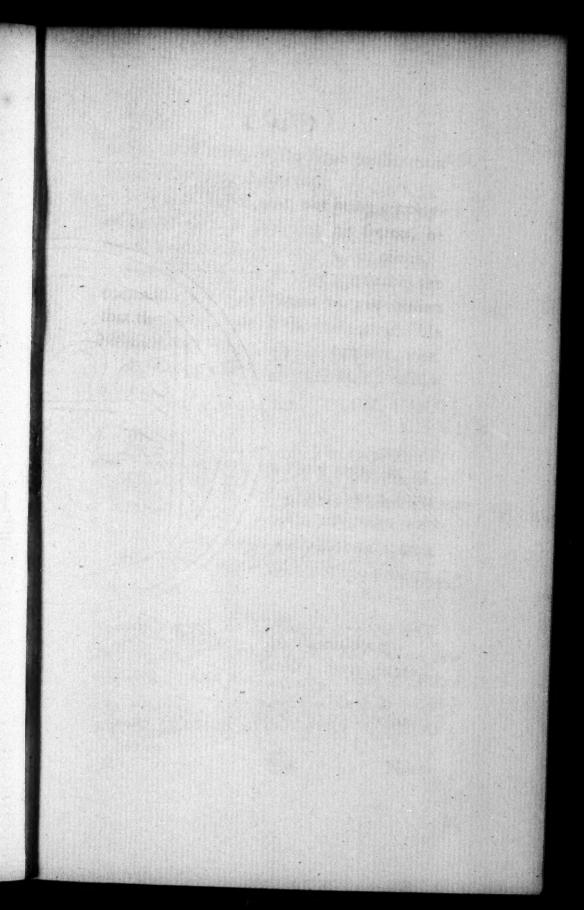
JOHN WEST. Objection, a minor.

A certificate of the register was produced, but, not being an exact copy thereof, was not admitted in evidence.

SAMUEL JENKINS. Objection, no freehold.

The witness attempted to be produced was agent for Mr. Chester, and as such had been permitted by his voters to get a fight of their title-deeds.

Objection was taken to his being examined



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mined as standing in the same predicament with a confidential attorney.

It was answered, that, not being employed by the voter in disclosing his secrets, he would not hurt the privilege of his client.

This question was warmly agitated in the committee, some gentlemen being of opinion that they should get all the evidence possible before them; others, on the contrary, that, if this was permitted, all considence must be at an end.

Moved,

THAT THE COUNSEL ON BOTH SIDES BE RE-STRAINED FROM EXAMINING THE AGENTS OF THE ADVERSE PARTY TOUCHING THE CONTENTS OF DEEDS OR WRITINGS WHICH THEY HAVE BEEN PERMITTED TO INSPECT AS AGENTS.

Ayes 9.

Sir Cecil Wray, Mr. Penruddock,
Mr. Powys, Sir W. Cunynghame,
Mr. Elwes, Mr. Halliday,
Mr. Phelips, Sir George Robinson.
Mr. Finch,

Noes

Noes 5.

Mr. Johnstone, Mr. Morant, Mr. Brand, Mr. Cleveland. Mr. Owen,

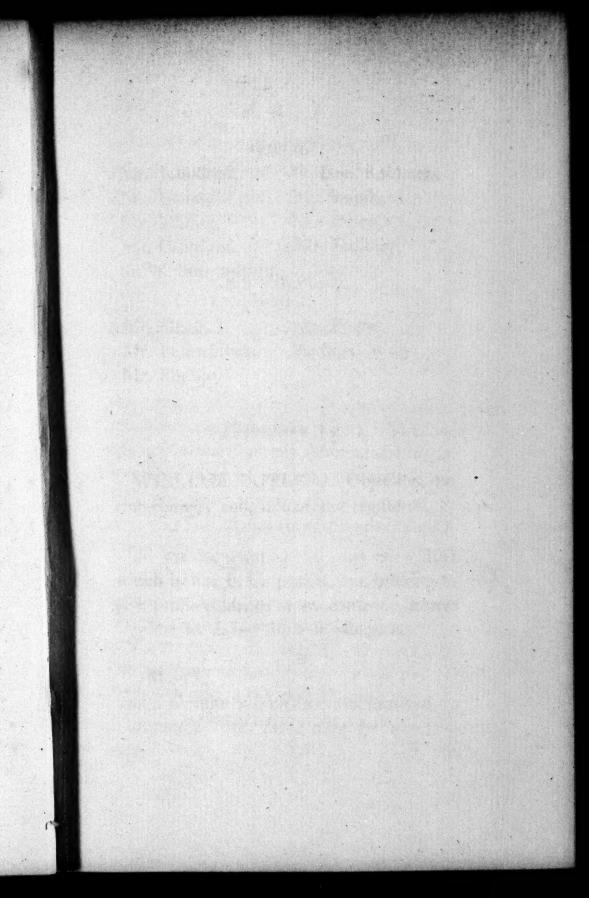
February 14.

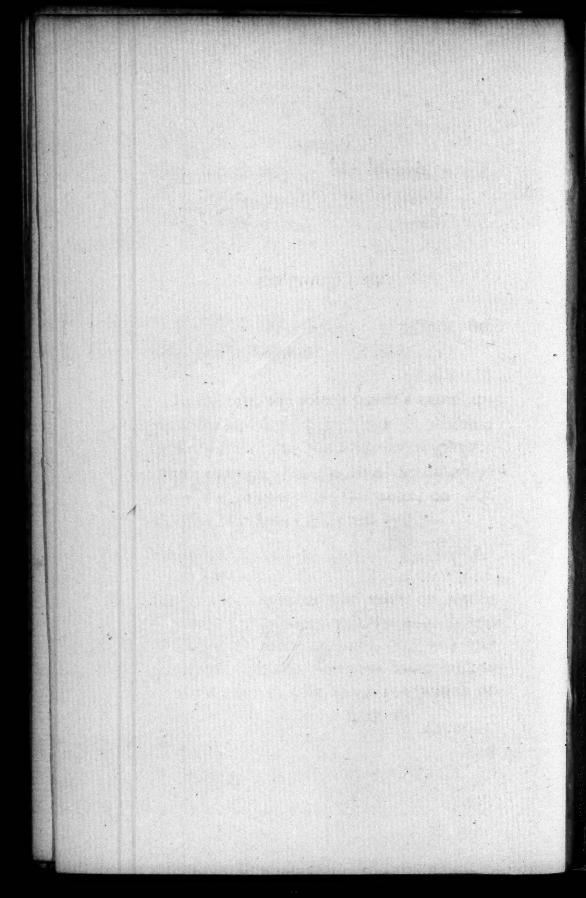
JOSEPH WALKER. Objection, not rated to the land-tax.

In the rate, the voter's tenant's name appears for land late HOLLISTER'S. A doubt arose whether this was sufficient to put the onus probandi, that the lands so described were the property of the voter, on Mr. Chester, the sitting member.

Moved,

THAT, TO ESTABLISH THE VOTE OF JOSEPH WALKER, HIS NAME NOT APPEARING IN THE RATES, IT WILL BE NECESSARY FOR THE SITTING MEMBER TO PROVE THAT HOLLISTER'S LAND IS THE SAME FOR WHICH HE POLLED, OR INCLUDED THEREIN.





Ayes 9.

Mr. Johnstone, Sir Geo. Robinson,

Mr. Elwes, Mr. Brand, Mr. Morant, Mr. Owen,

Mr. Cleveland, Mr. Halliday,

Sir W. Cunynghame,

Noes 5.

Mr. Finch, Mr. Powys, Mr. Penruddock, Sir Cecil Wray.

Mr. Phelips,

February 15.

WILLIAM BUTLER. Objection, no rent-charge; and, if one, not registered.

A witness refusing to produce a deed which he had in his pocket, but offering to give parole evidence of its contents, it was objected to, as not the best evidence.

Moved,

THAT SAMUEL NORTH, HAVING REFUSED TO PRODUCE THE TITLE-DEED OF HIS PURCHASE,

CHASE, BE RESTRAINED FROM GIVING PA-ROLE EVIDENCE OF THE CONTENTS OF THE SAID DEED.

Ayes 9.

Sir Cecil Wray, Mr. Powys,
Mr. Elwes, Mr. Penruddock,
Mr. Phelips, Mr. Finch,

Sir W. Cunynghame, Sir Geo. Robinson. Mr. Morant,

Noes 5.

Mr. Halliday, Mr. Cleveland, Mr. Brand, Mr. Johnstone. Mr. Owen,

JAMES DOWDING. Objection, no annuity—not registered—not of value.

The counsel for Mr. Berkeley contended, that, if they made out one of the objections, it would be incumbent on the sitting member to substantiate the vote as to all the others.

And the second s and the same of th

Resolved, nem. con.

THAT IT IS NOT INCUMBENT ON THE SITTING MEMBER TO PRODUCE EVIDENCE, IN ORDER TO ESTABLISH A VOTE, EXCEPT AS TO SUCH OBJECTIONS AS HAVE BEEN GONE INTO BY THE PETITIONER.

February 18.

RICHARD BENNET. A rejected vote.

The witness could not swear that he had tendered his vote to the poll-clerk:—that, after the poll had continued a few days, the rejected voters had orders to make such tender.

Objection was taken that the proper proof of the tender must be that it was done to the poll-clerk.

Answered, that circumstantial proof was sufficient.

Moved,

THAT IT IS NECESSARY FOR A PERSON CLAIMING A RIGHT TO VOTE, TO PROVE HAVING
TENDERED HIS VOTE FOR A PARTICULAR
CANDIDATE, BEFORE EVIDENCE BE ALLOWED
TO ESTABLISH SUCH VOTE.

Ayes 13. No 1, Mr. Johnstone.

WILLIAM BALL. A rejected vote.

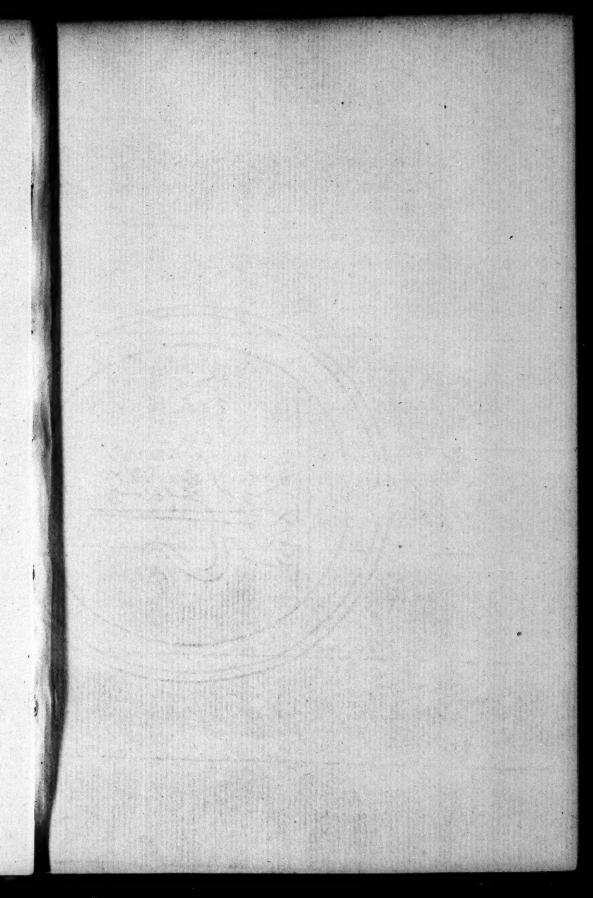
The first time he went to poll, he refused to take the bribery oath. It was argued, that, having once resused to take the oath, he could not afterwards be admitted.

Resolved, nem. con.

THE VOTER MIGHT BE PERMITTED TO TAKE
THE OATH, AND VOTE, ANY TIME DURING
THE POLL.

THOMAS JONES, jun. A rejected vote.

A deed was produced, reciting a fale to



SERVICE OF THE PROPERTY OF THE PROPERTY OF THE PARTY OF T the state of the s A Soul bas considered, reality a few ha

the voter's father and mother for life; then to their appointment—which gave the premises to the voter for ever, creating a term for a mortgage of 20 pounds.

Objection was taken, that, during the lives of the father and mother, they could not fell or give, especially the mother.

On a supposition that the father had a right to give an estate to his son for his own life, the committee

Refolved, nem. con.

THAT, AS FAR AS APPEARS, THOMAS JONES SHOULD BE ADDED TO THE PETITIONER'S POLL.

RICHARD BENNET. A rejected vote.

The counsel for the petitioner offering to produce evidence respecting the tender of Richard Bennet, it was necessary for the committee to make some resolution touching the method of proceeding. It was, therefore,

Resolved

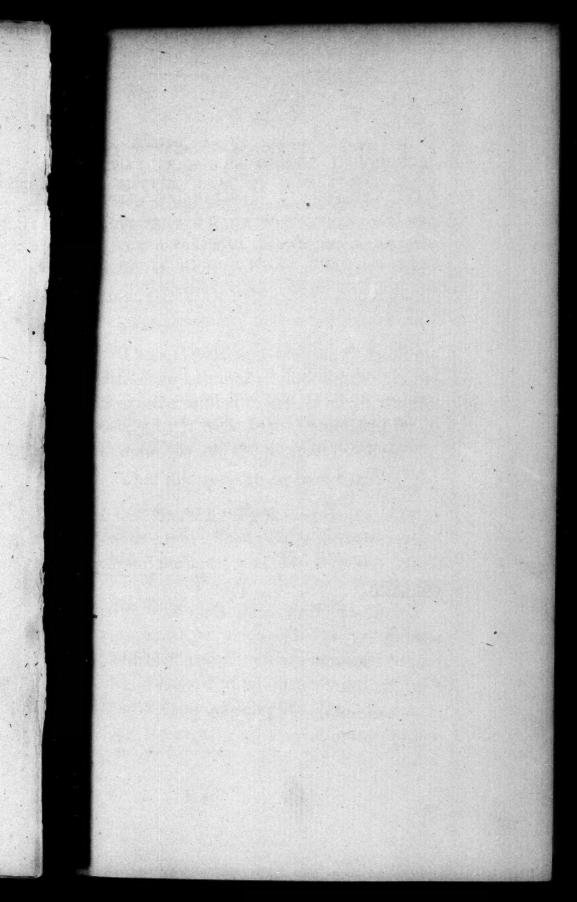
Resolved (Mr. Powys differing to the exception of Richard Bennet),

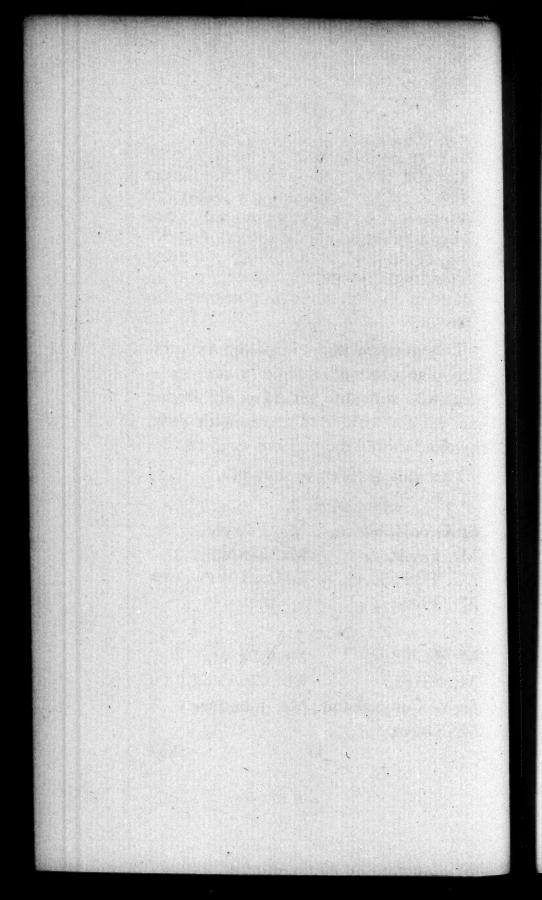
THAT THE COUNSEL BE RESTRAINED FROM EXAMINING FRESH WITNESSES TOUCHING A VOTER, AFTER HAVING PROCEEDED TO EXAMINE WITNESSES RELATIVE TO A SUBSEQUENT ONE, UNLESS SUCH WITNESSES SHALL HAVE BEEN NAMED TO THE COMMITTEE AT THE TIME SUCH VOTE WAS FIRST UNDER CONSIDERATION, AND SPECIAL CAUSE THEN SHEWN THAT IT WAS NOT IN THE POWER OF THE PARTIES AT THAT TIME TO PRODUCE SUCH WITNESSES; EXCEPT IN THE CASE OF RICHARD BENNET.

The witness proved that Richard Bennet had mentioned in the booth, that he intended voting for Berkeley, but not to the poll-clerk.

A debate enfued in the committee, whether or no this could be taken as a proper tender under the former resolution. As some gentlemen seemed to wish to explain it away, Mr. Powys, to give them that opportunity,

Moved,





Moved, is saw noisisup THAT IT IS THE OPINION OF THE COM-MITTEE. THAT IT IS NOT NECESSARY FOR A PERSON CLAIMING A RIGHT TO VOTE, TO HAVE TENDERED HIS VOTE FOR A PARTICULAR CANDIDATE, PROVID-ED IT SHALL APPEAR THAT HE MEN-TIONED HIS INTENTION IN THE BOOTH. BEFORE EVIDENCE BE ALLOWED TO ES-TABLISH IT.

This question was too glaring a contradiction to a former resolution: the gentlemen, who wished to get rid of the former one, yet not wishing to contradict it flatly, therefore moved the previous question,

That this question be now put.

Ayes 8.

Sir Geo. Robinson, Mr. Powys,

Mr. Finch, Mr. Elwes, Mr. Penruddock, Sir Cecil Wray, two

Mr. Phelips, voices.

Noes 7.

Mr. Halliday, Mr. Morant.

Mr. Brand. Mr. Cleveland,

Sir W. Cunynghame, Mr. Johnstone.

Mr. Owen, landin a bosolas and on

Mr. Fin h.

The main question was then put and negatived.

It was then moved, WORMY A NOT

THAT IT APPEARS TO THE COMMITTEE, THAT RICHARD BENNET HAS MADE A PROPER TENDER FOR THE PETI-TIONER.

Ayes 7.

Mr. Halliday, Mr. Morant, Mr. Brand, Mr. Cleveland, Sir W. Cunynghame, Mr. Johnstone. Mr. Owen,

Noes 8.

Sir Geo. Robinson, Mr. Powys,
Mr. Finch, Mr. Elwes,
Mr. Penruddock, Sir Cecil Wray, two
Mr. Phelips, voices.

February 21.

Wa. Pennaddock, Sir Cent Wisi, two

Edmund

JOHN PENLY. Objection, no free-hold.

A will was offered in evidence, by which the voter enjoyed a chattel-lease of premises;

In Penley's Case, the Councel for the Petitioner endeavado to prove that the premises voted for formerly belonged to one John Pavey deceased whose Daughter the Voter had married in order to intitle them to read the Will of Pavey for disqualifying the Vote. For this purpose Tho! Pavey the Surviving Trustee in

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s;

For this purpose Tho! Pavey the Surviving Trustee in such Will was examined, and said to the best of his knowledge, the votex polled for premises formerly the Testators, & that He never heard of his having any Land before he Inarried Testators Daughter.

William Cox was then examined, who at first spoke Positively as to his knowing the House voted for to have belonged

belonged to Testator, but upon his being X examined how he knew it, he said he lived in the House adjoining, which belonged to the Testator, and that He and one Sam! Woodward, who was formerly a Tenant of the House Doted for, paid Rent to the same person! He was asked if he ever saw any Rent paid? To which he answer'd that he did not, but that he hnew it by Report: And that Woodward had told him he paid tent to the Testator, Then he was asked if Woodward was alive? He answer'd that he believed he was. The Witness added that the House he lived in & that woted for were formerly in one.

Observation, as the Committee refused the reading the will, it must, I conceive have been from their considering that Seizin in the Testator was not sufficiently proved.

What Cox the Witness had heard Woodward say as to paying Rent to the Testator, was certainly not Evidence as Woodward was living.

Had the Petitioner brot Woodward, & he had proved tenting the House of Testor; that would have been Suffici. - ent Evidence of Sizin to intitle the Neading the Will.

* hept by Hog till the parties paid him for preparing it, when he say'd he thought he delivered it to george Stockham.

George Stockham was then called, who said that he never had the Deed out of Hogg's hands.

Daniel Hog was called again, who said he had searched his House & could not find, & really thought it had been delivered by him to Geo: Stockham.

mises, but as they were not identified to be the same for which the voter polled, the committee would not receive it.

A witness said he knew one Cox, and believed the voter lived the next door to him. The will was again offered in evidence.

Moved,

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THAT THE WILL BE NOW READ.

Ayes 6.

Mr. Brand, Mr. Owen,
Mr. Cleveland, Mr. Morant,
Sir W. Cunynghame, Mr. Johnstone.

Noes 8.

Sir Geo. Robinson, Mr. Phelips,
Mr. Finch, Mr. Powys,
Mr. Halliday, Mr. Elwes,
Mr. Penruddock, Sir Cecil Wray.

CALEB STOCKHOLM. Objection, no freehold.

An attorney proved that a deed had been figned betwixt Caleb and George Stock-holm: this deed, being executed, was given

D 2

to one Hog. *

Hog

Hog knew nothing concerning it,

A draft of the deed was offered in evi
No. In. Mog dence. The chairman argued against the

said the Braft admissibility of it: it might be altered by

produced was one word or two, in being ingrossed, so as

the believed

word for word to make the sense very different from what

the same with the draft purported, -or the deed might

be cancelled. However,

the Deed.

It was moved,
THAT THE DRAFT OF THE DEED BE NOW
READ.

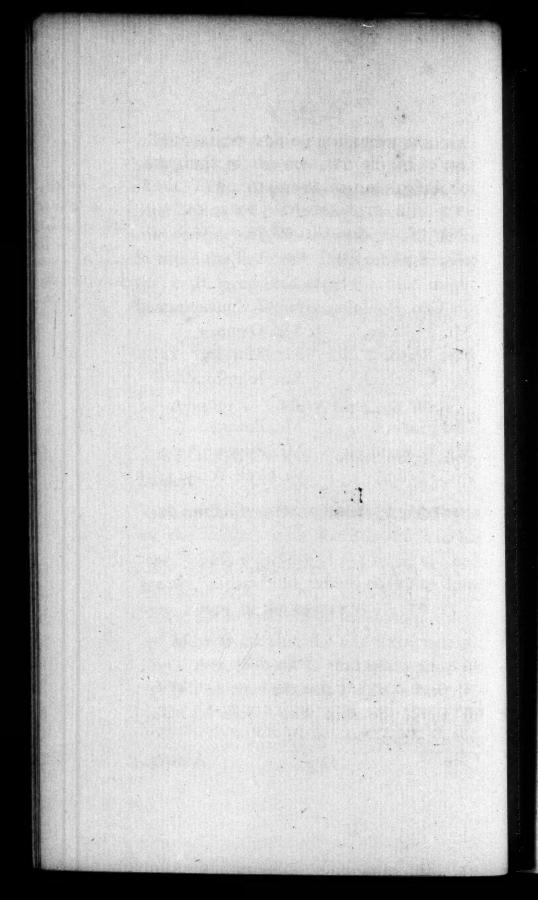
Ayes 13. No 1, Sir Cecil Wray.

GEORGE DAVIS. Objection, a copyholder.

A receipt was produced for a chief-rent by the tenant, who was allowed it in his rent. This was alleged not to be the best proof of a copyhold, which ought to have been a copy of the court roll.

Moved,

THAT THE EVIDENCE PRODUCED OF THE CHIEF AND COPYHOLD RENT PAID TO THE LORD OF THE MANOR, AND ADMITTED BY THE VOTER IN HIS ACCOUNT, IS SUFFICIENT



FICIENT EVIDENCE TO PUT THE SITTING MEMBER ON THE PROOF OF THE FREE-HOLD, ALTHOUGH NO NOTICE WAS GIVEN TO THE STEWARD OR LORD OF THE MANOR TO PRODUCE OR PROCURE A CO-PY OF THE COURT ROLL.

Ayes 8.

Sir Geo. Robinson, Sir W. Cunynghame,

Mr. Halliday, Mr. Owen,

Mr. Brand, Mr. Morant.

Mr. Johnstone. Mr. Cleveland,

Noes 6.

Mr. Finch, Mr. Powys, Mr. Penruddock, Mr. Elwes,

Sir Cecil Wray. Mr. Phelips,

THOMAS BISK. Objection, no freehold.

The voter was an infolvent debtor, difcharged in Surrey, 1761. The discharge book was produced by the clerk of the peace, together with the schedule delivered in by the voter at the time of his discharge.

It was objected, that the voter having fet his mark, the man who wrote his name ought to have been produced.

 D_3

Answer.

Answer. This is in the nature of a public record.

THE COMMITTEE ADMITTED IT.

roted for an annuity issuing out of Lands Oby a Not MR. BATHURST. Objection, sanity roting for an annuity by Descent on the annuity Notes for not properly rogulated. not registered as required by act of Parliament

Mr. Bathurst carried a memorandum of an annuity secured to him by the marriage-settlement of his father (Lord Bathurst) to get it registered. The act directs a registration describing the annuity by descent, marriage articles, or otherwise. Mr. Bathurst registered his annuity as coming by descent, though the clerk of the peace advised him to describe it as by marriage articles.

Moved,

THAT, AS FAR AS NOW APPEARS, MR. BATHURST HAD A RIGHT TO VOTE AT THE LAST ELECTION.

Ayes 7.

Mr. Finch,
Mr. Phelips,
Mr. Halliday,
Mr. Powys,
Mr. Penruddock,
Sir W. Cunynghame,

Noes

Observation. This annuity came to the voter within 12 months of the Election, viz! upon the Death of his Father which happen'd

16. Dec 1775.

"happen)

Coming to him therefore within 12 months of the Election, if required to be registered before the first Day of the Election. It was in Fact registered in Time, but in the Registration thereof. described ascoming by Descent instead of coming (as was the Fact) by Marr. Settlement.

Now the Words of the Act of 3. 9eo. 3. c 24. are positive that no person shall vote in respect of an Annuity or Rent Charge if suing 8.c, with shall come to him by Descent, Marriage, Marr. Settlement. Devise or Presentation to a Benefice in a Church or by promotion to to an office within 12 Months before the Election unless a Certificate upon Oath shall have been entered with the bleck of the Peace 40 before the first day of such Election, as follows Vinte.

"I. A.B. of 4° am really & bona fide "Seized of an annuity or Rent Charge to my own Use and Benefit of the clear yearly Value of 40. above a all Rents & Charges payable out of the same, wholly if issuing out of Treehold Lands & belonging to & if suing out of Treehold Lands & belonging to & it stuate in & in yt County of & without any Trust "Agreement, Inatter or Thing to the contrary notwith." - standing; and I became Seized of the said "Annuity or Rent Charge on the Day of "last past, by Descent or otherwise (as the Case may

(Mrs)

10% Bathurst therefore by entering the annuity to have come to him otherwise than it did, had not complied with what the act holds out as essentially necessary to give such an Annuitant a right of voting; and it appears to me to be as fatal as if the annuity had not been registered at all.

and the state of t

Noes 8. A and sin to the

Sir Geo. Robinson, Mr. Morant,

Mr. Brand, Mr. Elwes,

Mr. Cleveland, Sir Cecil Wray, two

Mr. Owen, voices.

NATHANIEL LONG. Objection, no freehold.

Mr. Berkeley's counsel read a part of a will of the voter's father, in which he gives his leasehold estates to the voter.

Refolved,

THAT PRESUMPTION, IN THIS CASE, IS SUFFICIENT TO PUT THE SITTING MEMBER ON THE PROOF OF THE VOTER'S FREEHOLD.

N.B. Six weeks after, Mr. Chester's counsel read the rest of the same will, in which See h: 132. the testator gives a freehold to the voter.

This part was not read by Berkeley's counsel, nor attended to by the other side.

HENRY HARDING. Objection, not rated to the land-tax.

It appeared in evidence, that the voter's tenant was rated, but that the tenant had D 4 lands

lands of his own in the parish, for which he might be presumed to be rated.

r. Cleveland.

Devlote A

Refolved, nem. con.

THAT THE TENANT APPEARING GENERALLY RATED TO THE LAND. TAX, IS PRIMA FACIE EVIDENCE OF LANDS BEING RATED, AND THAT THE ONUS PROBANDI RESTS ON THE OBJECTOR TO THE VOTE, EXCEPTING IN SUCH CASES WHERE THE TENANT SHALL BE PROVED TO BE OWNER OF COMMENT OF COMMENT LANDS IN THE SAME PARISH.

February 24.

for a Salary of \$20 a year iping out of the Great
Rev. JOHN JONES, Objection, "anAnnuity not registered as required by Act of
Partiam: Stipend

Partiant: Stipend
The annuity for which he voted was a payment of 201. a year, in lieu of tithes. It was contended, that this payment was not of the nature of those annuities which the act directs to be registered—that the registering act supposes annuities to be granted so secretly, as to facilitate the splitting of votes—that, in the case of a salary, it was of a public nature, and could not be concealed.

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It was answered, that, if a salary was not under a necessity to be registered, every person enjoying an annuity would evade the act by calling it a stipend—that, if a man has an invisible interest, not corporeal, it is denominated an annuity or rent-charge—that this being of an incorporeal nature, could not be found out without being registered, which was one of the principal purposes of the act.

It was replied, that it would be necessary to shew that a salary, implying a payment for work, was either a rent-charge or an annuity.

Moved, actor believes disidents of refere

THAT THE REV. JOHN JONES, STANDING ON THE POLL AS VOTING FOR A SALARY ISSUING OUT OF GREAT TITHES, IS OBLIGED TO REGISTER THE SAME UNDER THE ACT FOR REGISTERING ANNUITIES OR RENT-CHARGES.

Aye 1, Mr. Owen. Noes 13.

THOMAS BRAWN. A rejected voter.

Thomas Brawn, at the election, took the freeholder's oath, but was not admitted to poll.

poll. It was contended, that this oath put him on a level, as to his freehold, and the value thereof, with those who were.

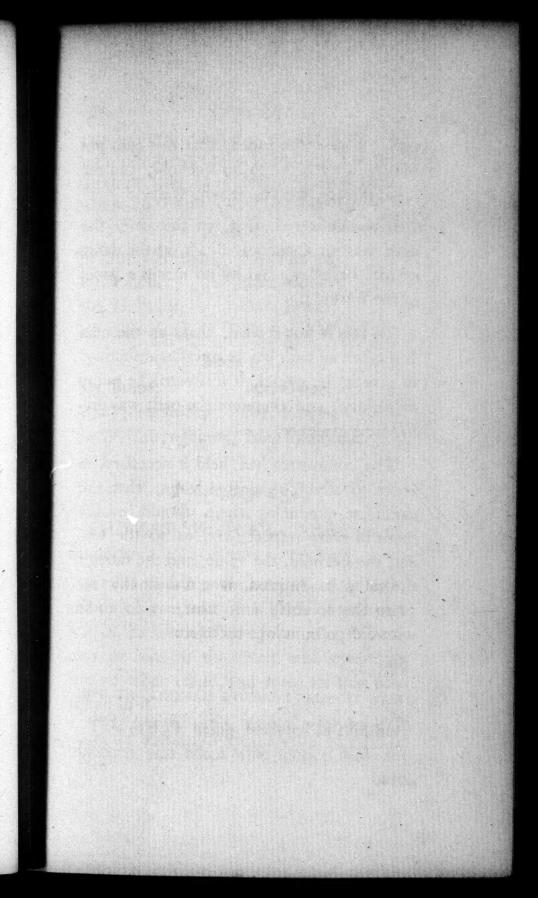
It was answered, that, in this case, the oath was an extrajudicial act, at the desire of Mr. Berkeley, and by no means a proof of the freehold.

To this it was replied, that, as the man had taken an oath before a person authorized to give it, he would, if forsworn, be guilty of perjury; and therefore the oath was prima sacie evidence.

The committee had held it necessary, in order to establish rejected votes, that the candidate producing them should qualify them in every respect, viz. as to the tender, the freehold, the value, and the rating: the oath, if admitted, would clear the title as to the freehold and value, as in those who did poll; it was therefore

Moved,

THAT THOMAS BRAWN'S HAVING, AT THE POLL-BOOK, TAKEN THE FREEHOLDER'S OATH, IS SUFFICIENT EVIDENCE TO PUT THE



The state of the control of the state of the

THE SITTING MEMBER UNDER A NECES-SITY OF PRODUCING EVIDENCE TO DIS-QUALIFY HIM IN RESPECT TO HIS FREE-HOLD, AND THE VALUE THEREOF.

Ayes 8.

Sir Geo. Robinson, Mr. Phelips,
Mr. Finch, Mr. Morant,
Mr. Halliday, Mr. Elwes,
Mr. Cleveland, Sir Cecil Wray.

Noes 6.

Mr. Brand, Mr. Owen,
Mr. Penruddock, Mr. Powys,
Sir W. Cunynghame, Mr. Johnstone.

February 25.

THOMAS SPENCER. Objection, no freehold.

A witness saw a counterpart of a lease, and took an extract of it (this counterpart was in the hands of one Johnson): this extract he read to the voter, who owned he had no other estate, and voted for that contained in it.

This extract being tendered as evidence, objection was taken that notice had not been

been given to Johnson to produce the counterpart.

It was answered, that notice could properly be given to no one but the voter. It comes out, indeed, in evidence, that it was in the possession of another person; but that could not have been known before.

It was replied, that the petitioner knew where the deed was, by getting an extract of it.

Moved,

THAT THE EXTRACT OF THE COUNTER-PART OF SPENCER'S LEASE BE ADMITTED IN EVIDENCE, THOUGH REGULAR NOTICE WAS NOT GIVEN TO MR. JOHNSON, THE TRUSTEE IN POSSESSION OF THE COUN-TERPART, TO PRODUCE IT.

Aye 1, Mr. Johnstone. Noes 13.

SIMON LUCKET. A rejected voter,

A deed of purchase from one Pullein, was offered in evidence.

It was objected, that there was not a tittle of evidence to prove that Pullein was ever feized of the premises before the sale, which had constantly been the rule before the committee.

Januari al-

NB. The following is the Evidence that was given to prove Mr. Pullein Seiz'd of the Premes before the Sale,

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t

Aichard Warner said he knew Simon ducket & the premes in his Possession. That He purchased them of Mr. Pullein. X examination said he heard Lucket say he so purchased them. The Witness added that they were part of the Inanon of Leachlades That Mr. Pullein had one half of that Manor & Sin Jacob Wheale the other half. and that ducket bremes were parcel of W. Pullein's part of the Inanor.

Sir Jacob Wheale said he know Mr. Pullein & Simon Lucket. That the Witness was possessed of half the Manor of Leachlade, & W. Pullein of the other half. that the Witness purchased Mr. Pullein's Moiety — That Lucket premes are part of that Inanor, & Lucket told him he purchased of Mr. Pullein.

X examination _ Jay'd Luckets Houses belonged to Pullain _ That the Witness tremembers Pullain in Possession for years before he sold to Lucket.

JF The proper Evidence wo? have been some Baility be of Mr. Pullen who had reced the Rents of Luckets promes prior to the Sale for the Use of Mr. Pullein, or some Tenant who had paid such Rents.

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the free of the second of the female and the second of the second of the second of the second of the second of

It was answered, that, if a person was seized in fee; it was sufficient to put him on the poll, and that the deed was only offered to corroborate his title.

Moved, ow daidy tanangula is this of

THAT THERE IS SUFFICIENT EVIDENCE BEFORE THE COMMITTEE TO ENTITLE THE PETITIONER'S COUNSEL TO READ THE CONVEYANCE FROM PULLEIN TO LUCKET.

Ayes 9.

Mr. Penruddock, Sir W. Cunynghame, Mr. Owen, Sir Geo. Robinson, Mr. Morant, Mr. Cleveland, Mr. Halliday, Mr. Johnstone. Mr. Brand, and avendon's dynamic stige

sech at it Noes 5. nes saler on sale

Mr. Finch, Mr. Elwes, Mr. Phelips, Sir Cecil Wray. Mr. Powys, a sould sit at demont stills

RICHARD BAILY. Objection, dower unaffigned.

a right of dower, because it was not

Mr. Chefter's counfel.

He has a right to vote, as having a beneficial interest in the premises. If the heir at law suffers the widow to remain in posfession, no one else can disseize her, she has an equitable right; but if put to her power of compelling a writ of dower, it must be by writ or assignment, which would be too expensive where the lands in question are not of considerable value: therefore, in such cases, the widow is generally left in possession. At the late contested election in Northumberland, persons with this title were permitted to vote.

Mr. Berkeley's counsel, in answer.

In law, a husband can gain no right to vote until his wife's dower is affigued. In Littleton, no widow can have dower otherwise. It may be inconvenient in small cases; but no right can accrue until it is done.

In the case of a pauper (Painswick), the widow was held by the court to be removable, though in the house in which she had a right of dower, because it was not assigned.

It is not the same case as that of an equitable interest, because that is conclusive as to the whole; whereas, in case of dower, there is no certainty of the part of the freehold till the assignment is made.

It is clear that in Strictues of Law the Widow has nothing in her till Power be assigned. The can't even recover Damages for the detention of her Dower but from the Time of her demanding an Assignment of it. (Co Litt. 32)

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Even in the Case of Dower ad ostium Ecclesia or Ex assense Patris where at the Time of Endowment the particular Lanasare specified and ascertained, and when the wife may enter after her Husbands Death without further Ceremony, yet it is laid down that the Treehold is not in her till entry 9 & 3.5. Hal MIS. Hargrave's Ed. Co. L. 37 a:

And the second of the second o out the second section of the second rain vateria meneralisti en indicatoria The State of the S Carried and the Carried State of Court and the state of t

In reply, it was urged, that the widow has certainly an equitable interest before such assignment is made. If the heir, after acquiescing in her possession, should turn her out, the court of equity would compel one; but there would be no possibility of a small estate bearing such an expence. In settlement cases, there is a strictness not usual in others; as, for instance, if letters of administration are not sued out, no settlement can be gained.

Moved,

THAT RICHARD BAILY, BEING IN POSSES-SION OF A FREEHOLD, IN WHICH HIS WIFE HAD RIGHT OF DOWER, BUT NO ASSIGNMENT THEREOF, IS INTITLED TO VOTE IN RIGHT OF SUCH FREEHOLD.

Ayes 2. Noes 12.
Mr. Finch,
Mr. Phelips.

RICHARD WARNER. A rejected vote, not being rated to the land-tax.

from Sir Jacob Wheate. The larger estate remaining to Sir Jacob was taxed for the whole.

whole. The question was, if this was a good rating for Warner's estate, under the 18th of George II.

Mr. Chester's counsel objected. They began by afferting, that when a person sells or gives an estate to another, and still remains rated for what remains to himself, the purchaser or grantee is not intitled to vote.

By an act of Queen Anne, it was a necessary qualification of voting, that the freeholder should have been assessed to all parish rates. This was found extremely inconvenient and uncertain; the act was therefore repealed by the act of the 18th of George II. and rating to the land-tax substituted in its stead; to which the voter must be charged or assessed.

In the same spirit is the act to register annuities, viz. to check the splitting of votes, and coining freeholds. It professes to prevent difficulties, and still half the disputes at the Glocestershire election arose on the construction of this act.

By the land-tax act, the affessors are to rate the lands in the division: if no appeal,

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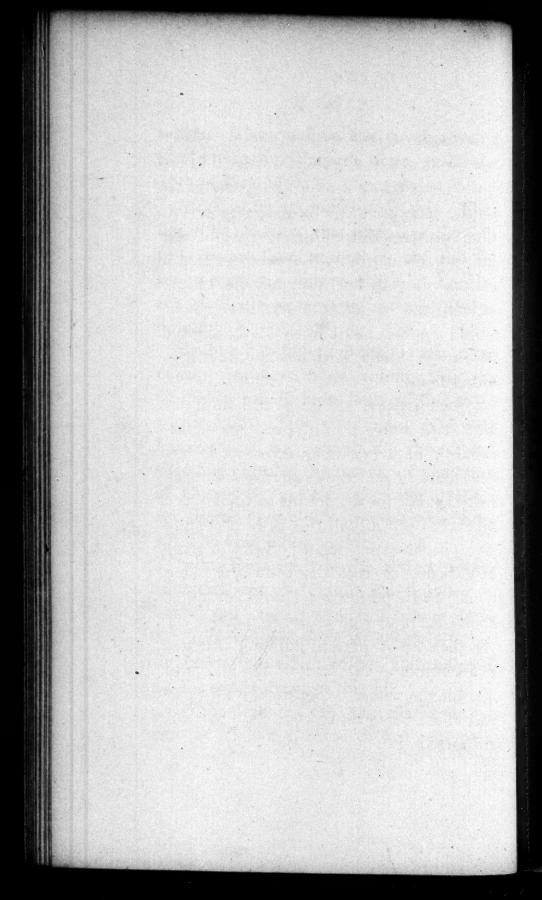
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to be so collected. If any person refuses or neglects to pay, the collector may distrain on the lands; and, if no distress, may commit the defaulter to the common gaol.

In common distresses, any part of the land may be entered on—the same in the land-tax—but if, for the purpose of an election, the collector should enter and distrain on the small freehold for the tax due on the whole, if this is law, it is iniquitous law.

If joint tenants are in possession of an estate, either may be distrained on or imprisoned; but, in case of severance in unequal shares, could the smaller one be proceeded against for the default of the larger?

At what period will this right of voting from virtual rating cease? Fifty or fixty years hence it will stand on the same ground, and a person vote, who never was either assessed or paid to the land-tax.

In the case of persons building cottages on a common, the lord of the soil pays taxes for the whole—does this give a right to all these cottagers to vote, as if particularly rated?

E

It is not in the power of an affessor to debar a person of his right to vote, by leaving him out of the rate—he may appeal against it, if he pleases, and be put on the rate. If the affessor wilfully leaves out names for election purposes, the committee would undoubtedly re-establish such votes.

The intent of the 18th of George II. being to prevent splitting votes, can be of no use, if the votes in question are allowed.

Second counsel.—The title of the 10th of Queen Anne is to prevent fraudulent conveyances to increase votes at an election. By an act of William III. such conveyances were made void. This was not sufficient, notoriety was wanting. This notoriety was given by the act of Queen Anne directing a public payment to some public taxes for one year at the least. If the estate is not separately rated, how could this effect be had? On the principles of the act, each estate should be separately rated.

An act of the 10th of Anne had directed that such rating should be to all affestments. As this was attended with consi-

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derable difficulties, from estates being variously circumstanced, the act of the 12th of Queen Anne declared it to be necessary that the estate should only be rated to one of them. Still the notoriety was maintained; but difficulties of proof still substituting, the 18th of George II. remedied the evil, by confining that payment to the land-tax; and, to make it more notorious, directed copies of the duplicates to be transmitted to the clerks of the peace.

Of what use would these duplicates be, but to confirm the notoriety? Of what use would they be to the candidate, if not informed by them that parts of the estate were sold off, and new freeholds created?

The use intended by the act was certainly an index of votes to the candidates, and a regulation for the information of the sheriffs at the poll; but, if not to be taken as such, delays and inconveniences, so far from being removed, would be increased.

If the large freehold includes the smaller, the latter have no appeal—the land is assessed—but it is also liable to pay all that is charged on the greater.

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Mr.

Mr. Berkeley's counsel, in answer.

If a general rule was made by the committee, on this occasion, it would affect the whole kingdom. The affessments, in general, are made by ignorant men, and must be very loose: some marks are less on estates since the first introduction of the land-tax; these marks are known to the inhabitants, but neither sheriff nor candidate can understand them.

By the 18th of George II. no person shall vote in right of lands and tenements which have not been affessed twelve months before to the land-tax. The manner of the affessement is not prescribed; it only means that no person shall vote who does not bear part of the public burthen.—The intention of the acts of Queen Anne was to ascertain the value of the freehold: they were repealed because they did not ascertain it, and the whole rested on the 18th of George II. which did.

The first evidence is the rate—if not in the rate, then parole evidence of the freeholds being included in the assessment on other lands, which would be a sufficient

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demonstration to every one of their being affessed.

The collector would scarcely distrain on the smaller part, when the larger stands in the rate. In Pyke's case, when the land was severed, it was under forty shillings a year, consequently not rated equal to a vote; though afterwards, being built on, it became worth 10l. a year.

At the purchase, a man gives five pounds to be exempted from land-tax: this is certainly a rating, otherwise he would pay the five pounds for nothing.

Second counsel. — In every contested election these votes have been held good—would the committee strike out so many thousand votes, without the act of parliament expressly directs it?

Is this rating a perfect notoriety? Does the law feem to aim at it, or only to require the payment? Should the land-tax act not pass, would every freeholder lose his vote?

If a common should be doled out in freeholds of forty shillings a year, this act means to keep them out, and they have

E 3

no right to vote; but where the lands are cultivated and known, this tax is a parliamentary rent-charge.—In the case of a common rent-charge on lands afterwards split into various estates, any part may be distrained on for the whole. There is a clause in the land-tax act, giving a power to those who pay rent-charges to retain a proportion of the rent to answer the land-tax. This shews rent-charges pay, though not rated. If the rating above was to be the proof of the freehold, the whole power of the election would be in the hands of the sheriff and the assessment.

Mr. Chester's counsel, in reply.

In practice some of these votes have been admitted—in Leicestershire they were put down doubtful, and no lawyer has ever given a decided opinion on them.

As to commons being excepted out of the rule, could see no difference that the law had made betwixt commons and arable land.

Would it be equitable to give an affessor power to ruin a small freeholder, by distraining on him for sums due from the larger

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 larger estate? And as to the land-tax ceasing, it would be a virtual repeal of the 18th of George II. and the freeholder would enjoy his right, as if that act had not been made. In the case of joint tenants, though one only on the rate, yet, without doubt, all had a right to vote.

On the whole, he contended, that either the freeholder, or his tenant by name, or a particular description of the freehold, should be on the rate.

Moved,

THAT RICHARD WARNER, HAVING PURCHASED,
TWELVE MONTHS BEFORE THE ELECTION, OF
SIR JACOB WHEATE, A FREEHOLD ESTATE,
FOR WHICH HE DOES NOT APPEAR PARTICULARLY RATED TO THE LAND. TAX, BUT TO
HAVE BEEN INCLUDED IN THE GENERAL ASSESSMENT IMPOSED ON SIR JACOB WHEATE,
AND OF THE ANNUAL VALUE OF FORTY
SHILLINGS AT THE TIME OF SUCH PURCHASE,
IS INTITLED TO VOTE UNDER THE EIGHTEENTH OF GEORGE II.

Ayes 12.

Noes 2. Mr. Penruddock, Sir Cecil Wray.

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The committee came to this refolution on different grounds, some gentlemen being of opinion that a virtual rating was sufficient, and that the value of the estate at the time of the severance was of no consequence, as the act directs a rating only—others held, that, at the severance, it ought to be above forty shillings a year, otherwise would not intitle to a vote.—The gentlemen who gave a negative to the motion held, that a notoriety of the payment was intended; and therefore that the freeholder, or his tenant, or a description of his freehold, ought to appear in the assessment.

February 28.

THOMAS HOGG. Objection, not rated to the land-tax.

Peter Hogg, the father of the voter, appeared rated.

Refolved, nem. con.

THAT, IT APPEARING IN EVIDENCE,
THAT PETER HOGG, THE FATHER OF
THE VOTER, WHO SUCCEEDED HIM IN

The Case was this

Peter Hog the late pather of the voter had 2 Estates in the Parish. The one a Copyhold which his Widow was in possession of . The other the Freehold for which the voter polled. Peter Hoggis Name stood upon the rate generally but the Petitioners Councel insisted, that that was for the Copyhold, I not the Treehold.

The Sitting Members Councel continued that as Peter Hog whom the Voter succeeded as to the Trechold stood rated generally, it was presumptive luidence of the voter's property being rated. The Committee resolved as above.

In the Case of Peterborough, One Edward Bals a Witness in the course of the Evidence concerning the conduct of the Parish Officers & Justices in making the Poors rates, was going to give an account of a Conversation in 1768. between him & wom Strong the Justice, about the reasons for making a private rate.

To this Avidence the Councel for the Sitting Members objected.

and the Committee allowed the objection 3. Doug: 124

Observation. Had it been a Conversation touching the reason for making the Rate of 1774. on which the Petitioners Case much depended, such Conversation coming from a person who was an active Triend of the Sitting Inember 8 attended him on his Canvafs would probably have been received in Evidence. But the reason whatever it might be; of making a rate in 1768. could have nothing to do with the rate of 1774.

HIS FREEHOLD, WAS RATED TO THE this presumptive Evidence That The LAND-TAX, THE VOTER BE PRESUMED TO BE RATED.

Mr. Berkeley's council offered an affeffor to give evidence of his *intention* in making the rate.

Resolved, nem. con.

THAT, WHERE THERE IS ANY DOUBT WHETHER A PARTICULAR ESTATE IS INCLUDED AS ASSESSED UNDER ANY PARTICULAR ARTICLE IN THE RATE, THE PARTIES ARE AT LIBERTY TO GIVE EVIDENCE IN EXPLANATION OF THE RATES, TO INDUCE THE COMMITTEE TO BELIEVE THAT IT IS INCLUDED OR OTHERWISE IN THE ASSESSMENT.

Moved.

THAT AN ASSESSOR BE RESTRAINED FROM GIVING EVIDENCE OF HIS INTENTIONS IN MAKING THE RATE.

Ayes 7.

Mr. Finch, Sir Geo. Robinson,

Mr. Cleveland, Mr. Powys,

Mr. Penruddock, Mr. Elwes.

Mr. Phelips,

Noes

Noes 8.

Mr. Halliday, Mr. Morant,
Mr. Brand, Mr. Johnstone,
Sir W. Cunynghame, Sir Cecil Wray, two

Mr. Owen, voices.

for a Rent issuing out of Land's at the JOHN SMITH. Objection, referred in these words "Voting for an Annuity not rent not regulared. Tegistered as regular "by Act of Parliament

As neither referved nor fee-farm rents are mentioned in the act for registering annuities, the committee

Refolved, nem. con.

THAT A RESERVED OR FEE-FARM RENT NEED NOT BE REGISTERED UNDER THE ACT FOR REGISTERING ANNUITIES.

JOHN FORDERY. Objection, no freehold.

A deed was produced from one Dutton to the voter's uncle, who died feized of the lands contained in it. It was alleged, that the uncle had given his estates by will to his nine nephews and nieces, the voter being one of them.

Mr. Chester's counsel objected to this evidence;

The Rent for which Smith voted was received or Secured to him thus. He was Seized in fee of the premes out of which it Issues, & being so Seized, he upon the mand of his 2. Son, convey'd the premes to Trustees, to the Use of himself till the Marriage was Solemnized, & after the Inarriage To the intent that the voter during his Life sho? take from out said premes an Annuity of \$5 - with Rem's subject to such Annuity to voter's Son this intended wife to.

NB. There is an express power to re-enter & to distrain in Case the Annuity is unpaid.

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evidence; as the will was not produced, the connection betwixt the uncle and the voter was not established.

It was answered, that it is the defendant's business to produce the will; the petitioner did not even know that there was one.

It was replied, that a will giving a chattel-interest must be known, as it would be registered.

Refolved, nem. con.
THAT THE WILL SHOULD BE PRODUCED.

Saturday, March 1.

On calling over the committee, Mr. Brand was absent, and (the house not sitting on that day) the committee adjourned without making a report.

March 3.

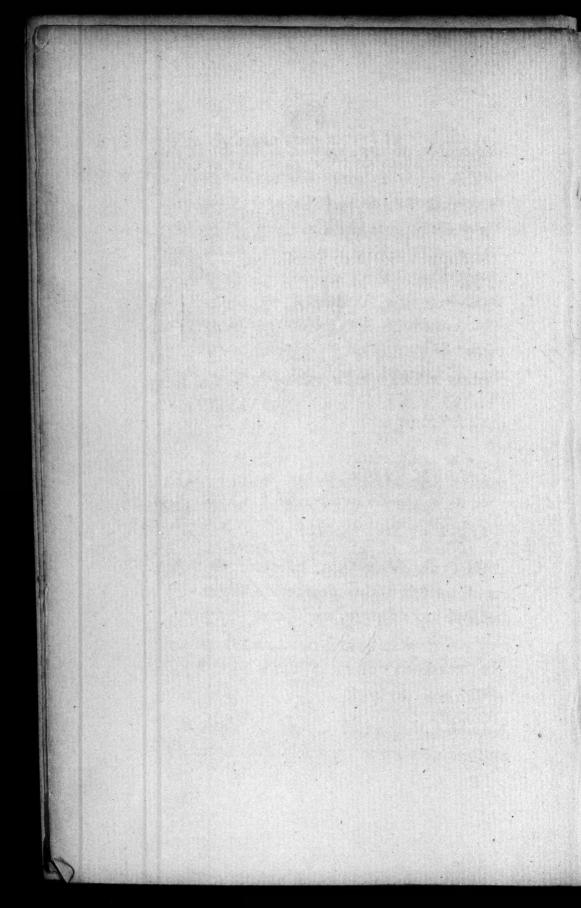
Mr. Brand still being absent, the committee adjourned to the next day, and the chairman reported his absence to the house. His apothecary attending and giving evidence of his sickness, he was excused.

The

The chairman then moved for "leave to proceed in the cause, notwithstanding his absence."

Sir William Guise, Mr. Burke, and several members in the house, opposed this motion:—they alleged that the committee would now be reduced to 13—that Mr. Powys was in a bad state of health—should any thing happen to him, or he be absent for 3 days, it would be at an end, to the great loss of all parties, who would be under a necessity to begin de novo, and therefore moved "that the house do adjourn the committee for a week."

This motion was opposed by Mr. Cornwall, Sir Cecil Wray, and others, as an interference of the house with the business of the committee, which might establish a very bad precedent—that, if another gentleman should fall sick, it would still be time enough to adjourn to give such gentleman time to recover, or to pass an act either to enable the remainder of the committee to proceed in the cause, or to find out some other remedy for the evil—that whatever step was taken ought to originate in the



committee, and be approved of by the house—that, the affizes approaching, many of the counsel were about to leave town—that there was a question to be argued before the committee of very great consequence to the parties, which must necessarily be brought on as soon as the committee sat, and which would make it very inconvenient for the parties to be without their leading counsel—that Mr. Brand could not possibly, from the state of his health, be able to attend his duty for some time.

The house resolved,

THAT THE COMMITTEE MIGHT PRO
CEED, NOTWITHSTANDING THE ABSENCE OF MR. BRAND.

Sir Cecil Wray then observed, that the room in which the committee sat was very hot and inconvenient, and therefore moved,

THAT THE COMMITTEE HAVE LEAVE TO SIT

IN THE COURT OF CHANCERY;

which was refolved.

Indeed, the excessive heat of the committee-room made it essentially necessary ness had some appearance of the gaol distemper—The board of green cloth therefore fitted up the court of chancery, which contributed not a little to preserve the gentlemen's health, which (except in one instance, Mr. Cleveland's sickness for one day) was rather better established than otherwise.

24th Day of hearing the Cause.

Mr. Brand being still absent, the committee called on the council to proceed.

Mr. Lee hoped the committee would rather adjourn than proceed without Mr. Brand.

The chairman told him the house had given leave, and the committee must proceed, or make another report to the house, which be would not do, after what passed the day before, when some members had treated the committee very cavalierly—defired them to proceed.

Mr. Bearcroft refused, as not sufficiently prepared, though he had had two days of adjournment.

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The court being cleared, the committee were unanimous in thinking themselves trifled with: it was therefore

Resolved, nem. con.

THAT, AT THE LAST MEETING OF THE COMMITTEE, IT WAS AGREED BY THE AGENTS
ON BOTH SIDES, THAT THE CASE OF THE
DYMOCK VOTES SHOULD BE ARGUED AT
THE NEXT MEETING OF THE COMMITTEE,
IN ORDER TO GIVE EVERY INFORMATION
ON THE SUBJECT BEFORE THE COUNSEL
WENT ON THE CIRCUIT:

Refolved, nem. con.

THAT, IN CASE THE COUNSEL FOR THE PETITIONER SHALL NOW REFUSE TO GO INTO THE QUESTION OF THE DYMOCK VOTES, THEY WILL BREAK THE AGREEMENT ENTERED INTO ON SATURDAY LAST, IN DOING WHICH THE COMMITTEE WILL CONSIDER THEM AS BEHAVING WITH DISRESPECT TO THEM.

The chairman was directed by the committee not to read these resolutions to the counsel, counsel, but to ask them if they would proceed on the Dymock votes—he did so, and the counsel, by good fortune, did not fall into the trap, but offered to proceed.

JOHN BOSWOOD. A rejected vote. N.B. A Dymock vote.

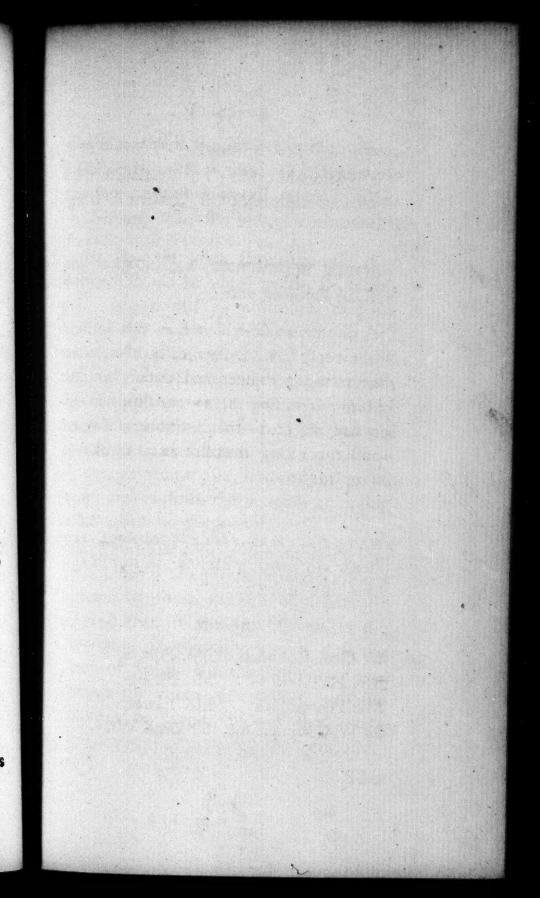
A dispute arose which side was intitled to the reply. In former cases of rejected voters, the petitioner had stated his reasons for admitting them—the sitting member had objected—the petitioner answered—and the sitting member been intitled to the reply.

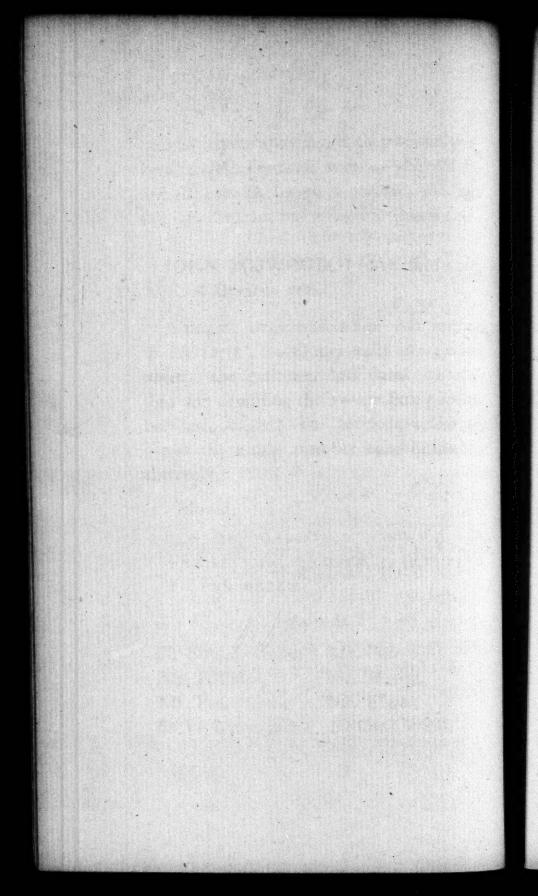
Moved.

THAT MR. MANSFIELD, COUNSEL FOR THE SITTING MEMBER, IS INTITLED TO THE REPLY.

Ayes 8.

Sir Geo. Robinson, Mr. Powys,
Mr. Halliday, Mr. Phelips,
Mr. Penruddock, Mr. Elwes,
Sir W. Gunynghame, Sir Cecil Wray.





Noes 5.

Mr. Finch, Mr. Morant, Mr. Cleveland, Mr. Johnstone.
Mr. Owen,

Mr. Bearcrost then stated the case, why Boswood should be added to Mr. Berkeley's poll. It appeared by a licence, that the lord of the manor infeoss two customary tenants with a cottage, &c. and that the said customary tenants may infeoss the voter with the said cottage, to be held of the lord of the said manor, according to the customary tenants recites the licence, and gives, grants, and confirms the premises according to the custom of the manor.

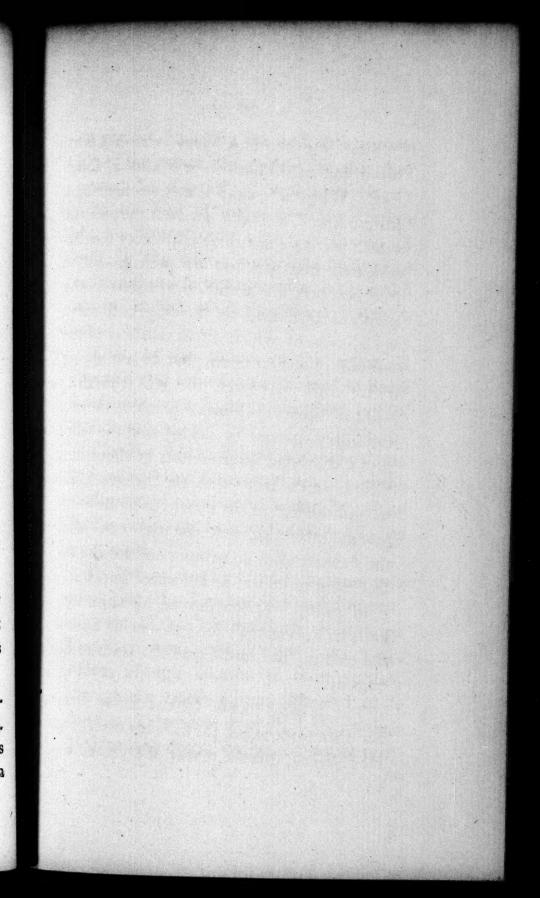
N.B. The court-rolls of the manor of Dymock being afterwards produced, it appeared by them, (which went back 73 years,) that, if the tenant lives in the manor of Dymock, he always took the oath of fealty—that the jury always prefented the death of a tenant with the fervices or heriots due—if those were unknown, they presented him generally.

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That the Dymock jury was a court baron, but at Michaelmas was also a court leet. When a tenant wants to alienate, a private court is called for that purpose, in which private court three customary tenants and two free benchers are present .- (The free benchers are certain freeholders in the parish of Dymock, not holding customary lands, two of which fit as affeffors to the fleward in every court, but do not appear vested with any power, except as witnesses.) -That licence is always granted to two customary tenants to infeoff, and the seller pays a chief-rent to the lord at alienation, viz. a year's rent—that the licence is inrolled—the lord of the manor, or his fleward, has no other concern in the title-that the steward does sometimes call for the infeoffment to inspect it, but never inrolls it.

In 1730, a person devised his customary lands to his youngest son; this being against the custom, the lord seized the lands to his own use.

The leading counsel for the sitting member then proceeded to state his objections. He observed, that the manor of Dymock was



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an ancient demesne; the lands in it partaking of the nature of copyhold, in that they
cannot be disposed of without a licence
from the lord of the manor, and through
the medium of other tenants of the manor
—so far the estates were held by copy of
court-roll and services; consequently could
not be in see, so as to intitle a person to
vote.

That, by the custom of the manor, it appeared that the estates descended to lineal heirs only, and, failing such, to the lord of the manor's use.

That the deed of infeoffment ought also to be inrolled—that the steward can inforce the inrollment, if not done in a year, by calling for the deeds, and holding the estate till they are inrolled.

Tenants holding by court-roll cannot vote by 31 Geo. II. This law was passed in consequence of the Oxfordshire election, as there were lands held by copy of court-roll, which, though allowed in that election, (though the house seemed ashamed of so doing, and therefore stopped, by a previous question, the determination, on which turn-

F 2

ed the decision of the cause,) ought not, in the opinion of the legislature, to be admitted in suture, as partaking of a servile tenure.

Tenants in ancient demesne were not free-holders, but customary tenants: they did not contribute to the wages of the knights of the shire, therefore had no vote in their election. The elections of knights were in the county courts, by the suitors to those courts: tenants in ancient demesne were not suitors there.

Should a fuit to recover these estates be commenced, it would not be at common law, but by Writ Close, before the steward of the manor—not in the king's courts, because not suitors there.

There was a great fimilarity betwixt these estates and copyholds. The lord's licence expresses the grantor, seoffees, and grantee. It is inrolled, which is the foundation of the title. Copyholds are surrendered to customary tenants, to give effect to the conveyance.

Admission is an act done by the lord of the manor acknowledging the furrender. In the manor of Dymock the lord's licence

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to convey to a particular person demonstrates his acknowledgment.

Suit of court, rent, and fealty, are incident to this tenure. The oath of fealty is an admission, and very frequently so in copyholds.

In the county of Cumberland many manors were of the same nature, in one of which the lord neglected (as was faid) to inroll, and by that means the tenant got a right to vote. Topia la characteria del la composicione

2d Counsel. Freeholders are accurately described in antient statutes-in one, called fuitors to the county court—in another, as dwelling in the county, and having 40 shillings of free land.

The sheriff, who takes the votes at his court, has no right to call on any but the fuitors to his court-Boswood has no free land, nor is a fuitor.

A man may have land free in interest. though not in tenure. In the present case, the fee of the land is in the lord, the feetail in the tenants; the heirs of their body cannot be difinherited-in this particular, of a nature more base than copyholders,

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who can difinherit, or mortgage—in Dymock they can only lease for 21 years.

The difference betwixt frank-fee and ancient demesne, Spelman says, consists in this, "that frank-fee can be recorded in the king's courts of common law as belonging to free men"—lands in ancient demesne are less than free, and cannot be so recorded.

In action of waste, place wasted may be recovered in law courts, and, if recovered, becomes frank-fee—therefore a good plea against writ of waste, that it is ancient demesne.

In the mode of alienation it differs from frank-fee, as it cannot be done but by the intervention of a third person—Littleton says, "a tenant in villain soccase must surrender to the lord before he can alienate."

A tenant in tail may bar his iffue by fine. A fine was levied on a Dymock eftate in the reign of Edward III. Judgment reverfed the fine as definherison of the land, and by which it would become frank-fee.

Tenant of the manor of Dymock excused from all attendance at county or hundred courts—

ACT OF THE PARTY O tod tomaco com a company of The second secon a little to the same than the same than the The state of the s

second to the second of the se courts—Prynne and Bacon say, that "none have right to elect, but those that contribute to knights wages"—Bracton says, "a common law demesne cannot have writ of right."

Ancient demessee mentioned in the 4th and 5th of William and Mary as distinct from copyhold or freehold.

Petitioner's leading counsel, in answer, observed, that, on the face of the customs, it appears, that the tenants of the manor have used freely to hold their estates to them and their heirs, with reversion to the lord of the manor, and may freely alienate, with licence from the said lord, to any one, and the lord cannot refuse the licence—should he do so, a mandamus or bill in chancery would compel him. This indeed is also the case in copyholds.

The act of 31 George II. fays, that perfons holding by copy of court-roll cannot vote—fuch are they who have no deeds, but produce a copy of the court-rolls as their title—Coke fays, that "those tenants are held of court-roll, because that alone is the evidence of their tenure"—Have the Dy-

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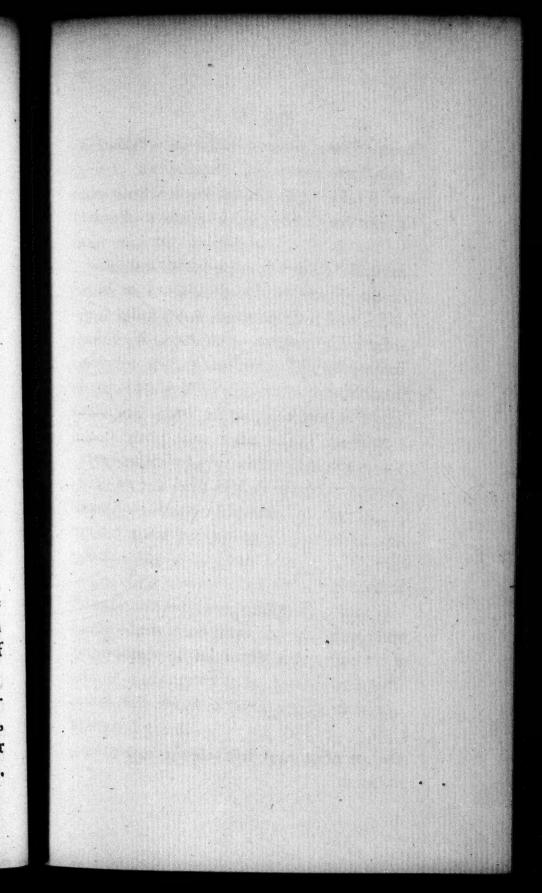
mock votes no other deeds or evidence? They have licence and infeoffment.

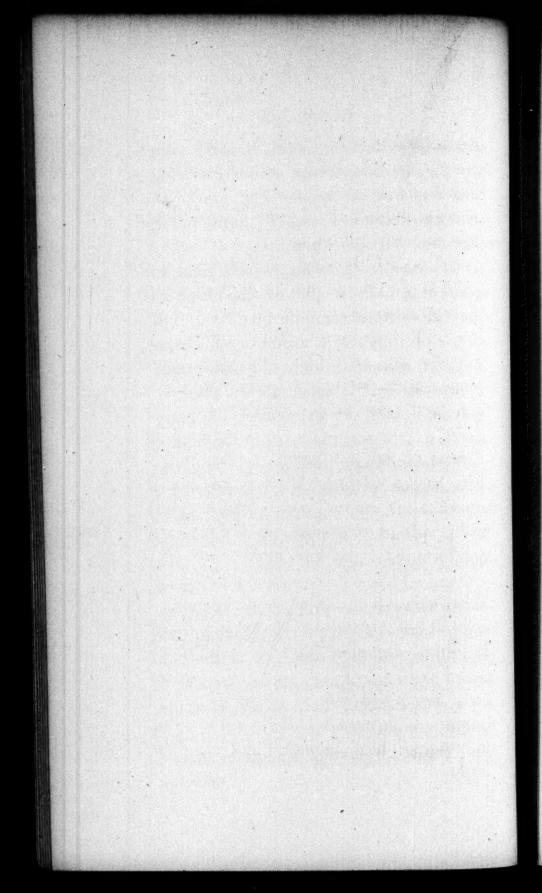
If no other custom, seoffment with livery and seisin will convey. In Pennyman's case in replevy, a special verdict that he was seized of land in see, and died without heirs, and the custom of the manor in Port Mirton was, that, if any tenant alienates by deed or inseoffment, such alienation shall be presented at the court within a year, else the seoffment void—and that the predict lands were not presented.—The court held it a good custom.

The reason of livery was, that the county should know who was the owner, and every custom which fortifies the common law is good—applying this to the present case, the custom may be good as fortifying the common law.

Manors and antient demesne were in the hands of Edward the Confessor, and so down to William I. who alienated many of them.

A court baron, or free court, was composed of the freehold tenants of the manor, with the lord's steward, and recorder, or clerk.





clerk.—The demesse manors were more persect, the greatest men at the bar being often stewards of them.—The manor of Dymock a court baron, to form which there must be freeholders.

Blackstone's arguments, which seem to decide this case, should be considered as taken more from antiquity than law. His state is of copyhold or customary freeholds not at the will of the lord. The act formed on his idea exactly copies the definition of Littleton: they are copyholders in every respect, except not at the will of the lord.

Surrenders may be either into the hands of the lord or his bailiff, or of two customary tenants—in the present case, to the latter; but the tenant has no copy, nor is he inrolled.

The lord does no act in acceptance of the tenant—acceptance cannot be before furrender—here is no proof of admission, nor circumstance of the lord's acceptance—if a custom is attempted to be proved by a fact, and no fact stated to the contrary, it would be a good proof.

If it was a rule that tenants in ancient demesne

demesne could not vote, it would prove too much, as it would extend over a very large part of the kingdom, which now was universally allowed to have obtained votes.

That the king's tenants should have justice administered at home, was considered as a privilege, not a mark of a base tenure; nor was it any criterion that they did not attend county courts.

To a cause begun in another court against a tenant in ancient demesne, and abatement pleaded for that reason, the court objected to the plea, because not made in the time that the objection to the jurisprudence should be made. In cases of forfeiture, it would be a disherison of the right of the lord, if allowed to be pleaded in the law courts; for which reason, always abated.

Second counsel.—In arguing the point, if a person holding by copy of court-roll, but not at the will of the lord, should be considered as a freeholder, Blackstone supported the negative, which the law has since confirmed.—In respect to copyhold manors in ancient demesne, his state of the

the control of the co which is point delicated the thickers The second of the second secon Cold your second to see the state Second Cold the the 20 months of the parties in the case is clear; but salse, if of freehold manors in ancient demesne. In the former, estates are conveyed by admittance; in the latter, by seoffment.

That tenants plead, and are impleaded by Writ Close, is no proof, of a copyhold, but of freehold. Crock, Fitzherbert, and Raymond say, "it is a writ of right in fee-simple, tail, or dower."

The licence was intended as a restraint on alienation.—In tenures in capite (viz. held of the king as such), they could not be alienated without licence from the king himself. Many manors now exist where licence is necessary to alienate, as the manor of Donford, &c.

The act of Charles II. for destroying base tenures, does not take away fines of any other courts but those held of the crown.

To be exempted from attending county courts, and paying towards the wages of the knights of the shire, was looked on as a considerable privilege: they were not taxed in parliament, and therefore had no right to vote; but as soon as they were taxed, as

well as the clergy, they gained that franchise. The latter were first taxed in 1662, and let in to vote under the idea of promotion to a benefice.

The writ of wages, from long disuse, would now be scarce recoverable; but, if it was, it would be impossible to discriminate the ancient demesne.

A copyholder never has the inheritance of the land; no timber, no mines, nor affets to pay debts.

Cummins, in his Digest, quoting Coke, says, "if freehold in ancient demesne, he may elect." All lands mentioned in Doomsday-book are in ancient demesne—what strange doctrine it would be that lands so held could not vote! The tenants of the manor of Brodens, in Leicestershire, an ancient demesne, voted at the last contested general election in that county.

The lord of the manor cannot hinder alienation: there are many grants to perfons and their heirs, with reversion to the crown: such persons can never have the inheritance but by act of parliament; nor can the inheritance of the crown be barred

by the later than the parties fine the state of the state of the state of the state of public Campulation and Company age of processing the later than the processing support the attention were consisted that they must be a golden. TO THE REPORT OF THE STATE OF T . The second of the second second second The section of the state of the sections

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by fine and recovery; but yet they are freeholds. Lord Derby's estate in the Isle of Man was of this nature.

Mr. Chester's counsel, in reply, observed, that these customary estates bear a great resemblance to copyholds. The copyhold act of 31st of George II. is explanatory of the common law, and the reasoning on it will go to all estates of a similar tenure.

The licence must be inrolled; the seoffment ought to be so; they cannot move a step without the roll. In Pennyman's case, he may convey to whom he pleases; registration necessary only when actually sold.

Courts baron may be held without cuftomary tenants. There is no instance known of such a mode of conveyance of a freehold estate as this in the manor of Dymock. Any admission is effectual to convey customary estates, nor can they ever be affets any more than copyholds.

Moved,

THAT JOHN BOSWOOD, A CUSTOMARY AND ANCIENT DEMESNE TENANT OF THE MANOR OF DYMOCK, ACCORDING TO THE CUSTOM OF THE MANOR, HAD SUCH A FREEHOLD

THEREIN

THEREIN AS INTITLED HIM TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLO. CESTER.

Ayes 8.

Sir G. Robinson, Mr. Morant, Mr. Cleveland, Mr. Powys, Sir W. Cunynghame, Mr. Johnstone, Mr. Owen, Sir Cecil Wray.

Noes 5.

Mr. Finch, Mr. Phelips.
Mr. Halliday, Mr. Elwes.
Mr. Penruddock,

The chairman gave his opinion for the question. He observed, that it appeared to him of the most doubtful nature; that the arguments were so forcible on each side, that he was determined solely by the principle, that, where the right was not clearly ascertained, he should give, rather than take away, the franchise.

25th Day.

SAMUEL MORSE. Objection, no free-hold.

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Observations on this Case,

If Mr Pettat had inspected these Deeds of his own Head without directions from Mr. Chester or his Agent, I presume He would have been compelled to have given an account of the Contents of them.

But having inspected them at the particular request of an Agent and for the purpose of enabling himself to make a return of the Voters in his Neighbourhood to that Agent, it seems to have been considered in the same Light as the Mr. Pitt had inspected them himself. Qui facit per alia facit perse.

The same Observation as is made with respect to Attorney in page 19. applys in a great Measure to Agents. For if an Agent of A the sitting Member how the Contents of a Deed under which one of A's voters polled, and He did not acquire that Knowledge in the Character Yfrom being an Agent, the Councel of B. the Petitioner, would as I apprehend, be at Liberty to examine him. Subject however (if the Agent was an Attorney) to the restrictions mentioned in page 19.

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a magistrate of ye country of Gloncester

Mr. Pettit was produced as a witness, but his examination was objected to. It appeared that he was a friend to Mr. Chester, had been requested by him and his agent to inspect to the peter white peters in the last and now was called on to disclose the contents.

Moved,

THAT IT APPEARS TO THE COMMITTEE,
THAT MR. PETTAT, WAS AN AGENT
OF THE SITTING MEMBER'S, IN RESPECT TO THE INSPECTION OF MORSE'S
DEEDS, AND, AS SUCH, IS NOT TO BE
EXAMINED AS TO THE CONTENTS
THEREOF.

Ayes 7.

Sir Geo. Robinson, Mr. Powys,
Mr. Finch, Mr. Elwes,
Sir W. Cunynghame, Sir Cecil Wray.
Mr. Phelips,

Noes 6.

Mr. Halliday, Mr. Owen,
Mr. Cleveland. Mr. Morant,
Mr. Penruddock, Mr. Johnstone.

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Objection, no freehold.

The voter himself was produced as a witness to prove that he had no right to have voted. This was objected to, as, having taken the freeholder's oath, he would prove himself perjured.

Mr. Berkeley's counfel. 99A TE TARY

A man may be called to contradict his own former oath. A witness once fwore one way to three different grand juries—another way to a fourth—YATES held his last "to be good evidence."

Mr. Chester's counsel, in reply.

A man is not an admissible evidence to prove his own vote, and it might be attended with bad consequences if permitted to disprove it, as it might open a scene of perjury not to be endured before any court; neither can he be asked a question to criminate himself.

Moved,

高四届有工产

THAT THE VOTER, IF WILLING, BE CALLED IN AS AN EVIDENCE.

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Committee having come to this Presolution Me Jepson (Agent to the Petitioner) went out of the Commee Room, & the Voter delivered to him a Lease for years under Lord Coventry, as the Deed under which he had poleed, & likewise signed an achnowledgment in Writing to the same Sheet, Me Jepson then returned, & produced the Deed and achnowledgment in Evidence.

Ayes 6.

Mr. Cleveland, Mr. Powys, Mr. Owen, Mr. Elwes,

Mr. Morant, Mr. Johnstone.

money was test prices of room purchase com

Sir Geo. Robinson, Mr. Phelips,

Mr. Finch, Sir W. Cunynghame,

Mr. Halliday, Sir Cecil Wray. Mid an equirable right.

fining member's countel a

Mr. Penruddock.

Several deeds, wills, and other documents, having been produced to the committee, under a necessity to be immediately returned; but, as the other party, in his defence, might want these deeds, and as, regularly, all evidence ought to remain with the committee to the end of the cause;

It was refolved, nem. con.

THAT THE PARTY PRODUCING ANY WILL. DEED, OR PUBLIC RECORD. IN EVIDENCE, SHALL BE DIRECTED TO DEPOSIT SUCH WILL. DEED, OR RECORD, OR AN ATTESTED COPY THEREOF, WITH THE COMMITTEE; IN WHICH LAST CASE THE ATTESTED COPY SHALL BE READ IN EVIDENCE.

WILLIAM PARRY. Objection, no freehold, or not 12 months possession.

The voter had articled to fell his estate, and put the purchaser into possession; but the money was not paid, nor the purchase completed. It was observed, that chancery would compel the purchase from the time of the articles, and therefore the purchaser had an equitable right.

The fitting member's counsel allowed that chancery would so compel it, but contended, that, till it had so done, the free-hold is in the person selling. An equitable estate does not give a right to vote; a legal one does: therefore the right in the voter till the deeds executed.

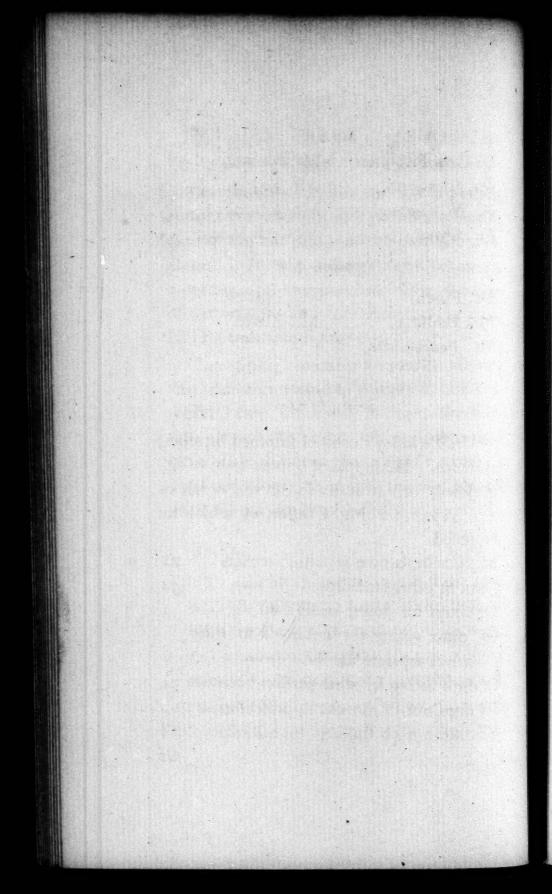
the convenience to the end of the causes

Moved,

AAITTIME.

THAT, AS FAR AS APPEARS TO THE COM-MITTEE, WILLIAM PARRY HAS SUCH AN INTEREST IN THE ESTATE WHICH HE ARTICLED TO SELL TO SMITH, AND OF WHICH SMITH WAS LET INTO POSSESSION IN NOVEMBER, 1775, AS TO INTITLE HIM TO VOTE AT THE LAST ELECTION. E F V M es

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Ayes 8. Sir Geo. Robinson, Mr. Morant, Mr. Cleveland, Mr. Powys, Sir W. Cunynghame, Mr. Johnstone, Mr. Owen, Sir Cecil Wray. Of hino receiving a soon from their

Mr. Phelips, Mr. Finch. Mr. Elwes. Mr. Halliday, Mr. Penruddock,

32d Day.

Mr. Berkeley's counsel summed up their evidence. He supposed himself to have disqualified, or, at least, shook the credit of 221 voters for Mr. Chester, of which he fupposed Mr. Chester's own leasehold tenants 21 Ditto of other landlords Of voters for dower unaffigned Of ditto voting for freeholds to their wives separate use _____ 6 Of ditto voting for other persons freeholds 34 Of ditto not 12 months in possession 12 Of ditto not 40 shillings annual value 24 G 2

Of ditto having contracted to fell their	
freehold 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4	5
Of ditto not rated to the land-tax	51
Of ditto being minors	2
Of ditto with annuities not registered.	20
Of ditto receiving alms from their	
parish —	4
Of ditto copyholds	4
Of prebendaries of Glocester —	3

He observed, that the declaration of those who faid they had no right to vote, was, at leaft, equivalent to their oath as freeholders. If the oath alone was the test, much injustice must follow; witness those who were leaseholders under Mr. Chester himself-at least those declarations are admissible, though no stress should be laid on those made before the election, unless corroborated by other evidence; but after the poll a man will not wantonly accuse himself of perjury. If the fitting member pleases, he can invalidate those declarations by producing the leafes themselves-if he does not, they ought to be credited-if collusion appears, they ought to be rejected.

In the Shaftesbury Case, Witnesses were called on the part of the Petitioner to prove declarations of Voters who at the Poll had taken the Bribery Oath, that they had received Punch's Money.

This was objected to as not legal Evidence, for that if such declarations were proved still they co? not be considered as proving the receipt of the Money. That it would be unjust to suffer what a Man had said in Conversation & without an Dath to invalidate what he had formerly Sworn. They lited the lases of Hertford & Surry 169 & Where Committee resolved that Evidence ought not to be admitted to disqualify an Electron as no Treeholder, who, at the Election Swore himself to be a Treeholder.

To this it was answerd that those Cases proved too much for that if the Doctrine which they contain were to be adopted, it would be in any Elector's power by committing perjury to preclude all inquiry into the legality of his vote.

In fact, the Evidence offer'd was admitted Douglas &: &: Ool 2. p 308

Mr. Douglas in his Notes on the Shaftesbury Case, States a determination of the House in the Case of the Country of Bedford, posterior in time & directly contrary to the Resolution in the Case of Heatford & Surry, (vizt)

"being put that the Councel for the Petitioner be admitted to give "parole loidence as to a Person's being no Treeholder, who swore "himself to be a Treeholder at the time of the Election".

It passed in the Agirmative, on a division 98 to 66.

Me Douglas also observes that the standing order of the House, of 22 Nove 1717. by which it is declared that a Mans qualification to be a Member of Parliament, may be disputed, although he shall have previously Sworn to it, is also in direct Contradiction to to the principle of the two Cases of Hertford Ysury.

But though it may be disputed, and though it is clearly competent to prove an Elector who has twom to his Treehold to have none, yet I should doubt how far a man's own declaration, un accompanied with other proof, could be held to invalidate what he had positively I worn to.

When seisin alone proved, if nothing impeaches the vote in other respects, it ought to be established; as actual possession is sufficient to ground and support an action of ejectment. Seisin in the lessor, sufficient for the lessee—person in possession may hold against the world, unless a better title can be made out.

He concluded by thanking the committee for the candid and patient manner in which they had attended to the whole case.

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Mr. Chefter's counsel then proceeded to open his case. He observed, that the sheriff had been accused of partiality in the petition, yet not a tittle of evidence had been produced to prove it. He might have been mistaken in his opinions; the committee had thought him so; but in those mistaken opinions he had made the same rule for both candidates. He had thought, for instance, that the duplicates of the land-tax were the proofs required by the legislature; but he had gone a step surther, for he had given every person not actually in the rates an opportunity to prove that he contributed to the land-

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tax. The hurry of the poll did, indeed, prevent a nice investigation into the proofs that small estates had been severed from the larger, and covered by their being rated.

It was very true, some of Mr. Chester's voters had only chattel-leases—in the hurry of an election this was unavoidable—but no such were admitted to poll, knowing them to be such.

Parole evidence of the contents of deeds should be taken with caution, and examined with care. The voter's declaration was certainly better after than before the election; but the deeds were not, perhaps, in the power of the sitting member—perhaps did not exist—would the vote be set aside because not produced? At least, the existence of the deed should be completely authenticated.

The voter's declaration should be admitted against himself, but not against the candidate he voted for; otherwise it would be in his power to set aside his own vote, if any private reasons should induce him to do so.

Most of the objections were calculated merely to put the sitting member to the expence of bringing up witnesses to substantiate these s

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John Rodway tender'd to pole for the Petitioner in right of a House V Stables at Kings-stanley in his own possession, but was rejected by the Theriff on account of lating, The Petitioner gave him in in his List as a person to be added to the Pole; And made the following Case before the Committee,

That Rodway duly tendered his Vote, That he was seiz'd in Hee of the Premes for which he so tendered,

these votes. A contract to sell, for instance, and possession under it, yet is not conveyed legally, does not hinder the owner from voting.

He observed, that, in his opinion, when any particular case does arise and immediately is argued, it should be finally determined; otherwise it would be impossible to determine, with any degree of certainty, so many cases as would be left to the end of the cause.

That the method he proposed to conduct his cause should be, first, to substantiate the votes in the particular booth, which had been shook by the petitioner; then to object to the petitioner's votes in such booth; and, lastly, to add rejected votes to the sitting member's poll, either in such booth, or at the end of his cause, as most convenient. He began with objecting to

JOHN RODWAY. A rejected vote.

thicay he referred it, on the

John Rodway had purchased a freehold of 20s, annual value, which had been affested with the larger estate from which it was se-

G 4

vered.

yered. The question was, if this was a good rating?

The petitioner's counsel observed, this is a question of fact, if assessable at the time of the separation, as the land-tax directs none to be rated under one pound a year—if so rated, it will consequently intitle to vote.

The fitting member's counsel, in answer, observed, that the intention of the legislature must have been either an index to the voters. or to lessen the number of small ones. In the present case, Mr. Barrow (member for Glocester) had given his evidence, that being now worth 5 or 6 pounds a year, and liable to be rated as fuch, yet the furplus of the rate above the 20 shillings would go in ease to the whole town, and not to the ease of the estate from which it was severed. By this he would feem to think Rodway's freehold at present not rated; however, the question being nice, he referred it, on the former land-tax argument, to the committee.

The committee withdrew, and proceeded to debate this question. In their former question of land-tax, they had decided under I that such premises at the Time of the Election were worth

the a year, But it appeared that they were become of that

And that at the time office pure them were build to

value by Rodway's having Erected the House; but only a small

piece of Land not worth more than 20. a year. This Land was

purchased out of This Pavey's Estate, and the remaining part of

that Estate, as was made manifest by production of Assepments

prior & subsequent to the Separation, continued to be rated at

the same sum as the entire Estate was before Rodway purchased.

There must be some mistake here; for Me Barrow was certainly not examined in this Case. He was examined on the 8th of March touching wom Hawkes a rejected vote, whose Case was not dissimilar to this,

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the expression of "a freehold estate of the value of 40s. a year at the time of such purchase;" seeming to imply that they would not have looked on it as a good rate, if the value at the severation had been less.

It was argued, that a virtual rating should be, at least, as high as to intitle the person to vote; but as the act of parliament expresses only a "rating," it does not seem of the least consequence if rated for 20 or 40 shillings. The distinction was very nice.

Moved,

THAT, JOHN RODWAY HAVING PURCHASED AN ESTATE IN LAND OF THE
ANNUAL VALUE OF TWENTY SHILLINGS AT THE TIME OF SUCH PURCHASE, ON WHICH HE HAS SINCE
ERECTED A MESSUAGE OF THE ANNUAL VALUE OF SIX POUNDS, WHICH
LAND, AT THE TIME OF THE PURCHASE, WAS INCLUDED AS RATED IN
THE ESTATE OF THE SELLER, WHO
NOW CONTINUES TO PAY THE SAME
RATE AS BEFORE THE SEVERATION,
BUT NO ADDITIONAL ASSESSMENT
IMPOSED

IMPOSED ON THE ESTATE FOR THE INCREASED VALUE BY BUILDING THE
SAID MESSUAGE, THE PREMISES ARE
SO RATED AS TO GIVE A RIGHT TO
THE SAID JOHN RODWAY TO VOTE
AT THE LAST ELECTION FOR THE
COUNTY OF GLOCESTER.

Ayes 5.

Mr. Cleveland, Mr. Morant, Sir W. Cunynghame, Mr. Johnstone. Mr. Owen,

Noes 8.

Sir Geo. Robinson, Mr. Phelips,
Mr. Finch, Mr. Powys,
Mr. Halliday, Mr. Elwes,
Mr. Penruddock, Sir Cecil Wray.

33d Day.

LEASE: ON WHICH HE

To fubstantiate JAMES TIPPET.

Davis was rated for land "late Williams'."
A deed was offered as evidence, faid to be a fale of the premises from Davis to the voter. It was contended, that, as the deed

. Vloved.

The Objection "not rated"

It was an old House which had belonged to one witham, who devised to willow Davis: & Davis by Lease & Release dated 29th 30. July 1773. conveyed to the voter.

12. February. The Pet in Support of the Object produced Isaac Carpenter who say'd the Voter told him the premes did not pay Land Tax: And that the Voter at another Time told the Witness that the Gentlemen had examined the Books & found he had no right to vote.

Edw

Edward Cary say'd he had attended making the Rates 9 or 10 years, I that for the 3 or 4 last years the House Voted for being Tuinous had not been Tated.

14th March. The Sitting Member to Substantiate the Vote against an objection seemingly so well supported, produced the Assepments for 3 years which ran thus.

They then opered in Evidence the above Deeds from Davis to the Voter; and to show that Davis the Grantor & Davis the person rated was one & the same, the subscribing Witness proved that Davis who executed the Conveyance lived in Kings Head Court: and in order to prove Seizin in Davis, the Witness say'd that at such the time of executing the Deeds, Rent was paid to Davis by one John Elsmore the Tenant of the premises.

21 April. The Petitioner offer'd Evidence in addition to what they had before given touching Tippets not being rated to the Land Tax.

But Commee resolved as ment in p. 167.

That Councel for Petrbe not allow'd to produce loisence "to prove that James Typet's was not tated to the Land Tax, "they being now in the course of their Reply."

was not intended to prove the right to the estate, but only to identify the premises as to the rates, it was admissible.

Moved, had bad yed to the mood one al

THAT THERE IS SUFFICIENT EVIDENCE TO INTITLE THE COUNSEL FOR THE SITTING MEMBER TO READ THE DEED OF SALE FROM DAVIS TO THE VOTER, IN ORDER TO ESTABLISH THE LANDTAX.

Ayes 12.

Noes 2.

Mr. Powys, Sir Cecil Wray.

34th Day.

Mr. Cleveland was absent.

35th Day.

The committee debated, whether, under Grenville's act, they could proceed to bufiness, until Mr. Cleveland's absence on the 34th day had been reported to the house. Mr. White, clerk of elections, was of opinion it could not, and that in former committees

mittees the rule had constantly been to make such report.

The words of the act were not decifive. In one committee they had passed over the absence of a member on one day, and had proceeded to business the following day—This was not quite in point, as the chairman declared his intention was to make a report. However, the inconveniences of not proceeding balanced the committee, and it was

Moved,
THAT THE COMMITTEE DO PROCEED TO
BUSINESS.

Ayes II.

Noes 2.

Mr. Morant, Sir Cecil Wray.

N. B. On the following day the chairman reported the matter to the house, and that the committee had proceeded to business. The house received the report, and made no objections; by which the precedent was fully established.

was it could not, and that in former com-

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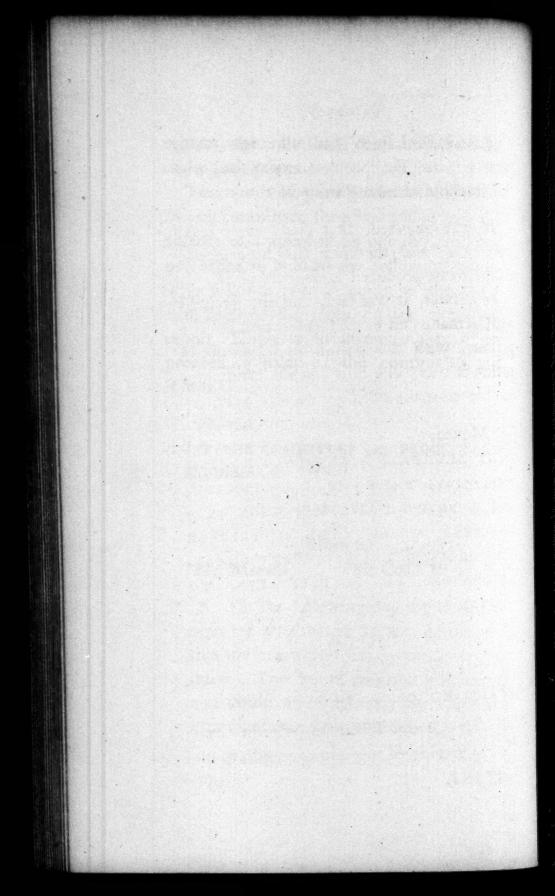
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ARCHDALE WILKINS. Objection, that he had not specified the occupier of his freehold at taking the poll.

It was objected, that this was no legal objection; and therefore that no evidence ought to be produced in support of it.

In answer, it was said, that the freehold oath demands an exact specification of the persons, with the persons in whose occupation it was; else how can the candidates be able to make objections to the vote.

Moved,

SPECIFIED THE NAME OF HIS TENANT,
IS A PRIMA FACIE OBJECTION SUFFICIENT TO PUT THE PETITIONER
ON PROVING THE NECESSARY QUALIFICATIONS TO INTITLE HIM TO
VOTE.

Ayes 11.

Noes 2.

Sir Geo. Robinson, Sir Cecil Wray.

N.B. Sir George Robinson and Sir Cecil Wray negatived the above question, on a supa supposition that the objection was either quite fatal, and not to be remedied by any evidence, or no objection at all, and consequently imposing a hardship on the petitioner by putting him to the expence of evidence.

blodeen and tall bis Day.

GEORGE SPARKS. A Objection, no freehold, and not in possession.

The voter had fold his estate at Pembury for 1000 years, and given orders to his tenant to but, the order being to "William Davis," and not to "Walters," which latter he had given in at the poll, the petitioner's counsel objected to read this order of alternment, as no such objection had been taken, and therefore they were not prepared to answer.

Moved,

THAT, THE OBJECTION TAKEN TO THE VOTE
OF GEORGE SPARKS BEING THAT HE HAS
NO FREEHOLD IN THE ESTATE HE VOTED
FOR, AND HE APPEARING IN THE POLL TO
HAVE

The Case was not exactly as in the Text, but as follows. The Istate formerly belonged to one Pembury, who in the year 1756 demised the same for 1000 years to one John Davis by way of Mortgage for securing £50 & Interest. The Octer married a Daughter of Pembury's & pembury thereupon gave the Premises to the Voter, but by parole only. John Davis the Mortgagee died & one Mrs Williams the Wife of Wom William's is his administration.

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About 2 or 3 years before the election the voter by writing ordered the Tenant whose hame is "Walter Pavis" not walter walters as described on the Pole to pay nent to W" williams, which he had wer since done without accousting with the Voter.

The Sitting Member, against whom this Man Polled, had got the Order of Attornment, which had been shewn to the voter, who acknowledged it to be of his hand Writing, and to be an order concerning the Premises for which he voted. The voter at the same time said he had no other fremises than what were in the posion of Walter Davis the person to whom the Order was directed. That he had no such Tenant as Walter Walters & therefore if he had given in Walter Walters he had made a Inistake.

The Councel for the Pete objected to the Reading this Order of Attornment, upon the ground mention'd in the Text.

Disonters, when comparing their Constitution with that of the Istablished Church, in nothing claim a prefserence more than in their being able to remove ad libitum, their Teachers, whenever they find their Tenets be not agreeable to them.

Pout though this was universally understood, the spirit of Party had so diffused itselfamong the Difsenters, who almost to a Man were for the Petitioner, that they certainly for the present purpose wished it to be considered that their Ministers were not so Temoveable. Among Mr. Samuel Thomas's Followers, not one was in the Interest of the Sitting Member. This was certainly the reason why the Sitting Member of Councel proposed to give in Evidence in this particular Case, the Constitution of other Difsenting Congregations.

PATION OF WILLIAM WALTERS, BUT HAVING SINCE DECLARED THAT HE HAD NO
SUCH TENANT, AND THAT THE PREMISES
FOR WHICH HE VOTED WERE IN THE OCCUPATION OF WILLIAM DAVIS, THE ORDER
OF ATTEXAMENT FROM THE VOTER RELATIVE TO THE PREMISES IN THE TENURE OF
WILLIAM DAVIS SHALL BE READ, THOUGH
NO OBJECTION WAS TAKEN TO THE MISNOMER OF THE TENANT.

Ayes 12. No 1, Sir Cecil Wray.

for an Annuity issuing out of Fresh? Lands at mangetsfield
SAMUEL THOMAS. Objection, no
freehold annuity, and not registered.

The voter was a differting minister, chosen by the unanimous voice of the congregation, and enjoying as such a legacy of 15 pounds a year. It was proposed to bring evidence of the constitution of other differting congregations.

This was objected to, as not relevant to the present case.

It was answered, that, as diffenters are not established by law, it will be necessary

to prove their general custom, that their ministers held their office durante placito.

It was replied, that the constitutions of different congregations are so different, that no general rule can be adduced from the evidence offered, which will only shew the constitutions of such particular congregation.

Moved,

THAT THE COUNSEL BE AT LIBERTY TO GIVE EVIDENCE OF THE CUSTOMS OF OTHER PRES. BYTERIAN CONGREGATIONS, THE DEED OF THE LEGACY NOT BEING PRODUCED, AND IN THE HANDS OF THE MINISTER.

THE BLAND BANG BULLE BE H

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Mr. Cleveland, Mr. Owen,
Mr. Penruddock, Mr. Johnstone,
Sir W. Cunynghame, Mr. Elwes,
Mr. Phelips, Mr. Powys.

no nother hand Nocs 5. Sometime

Sir Geo. Robinson, Mr. Morant, Mr. Finch, Sir Cecil Wray. Mr. Halliday,

Very little could be gathered from the withestes on this head. In some congregations

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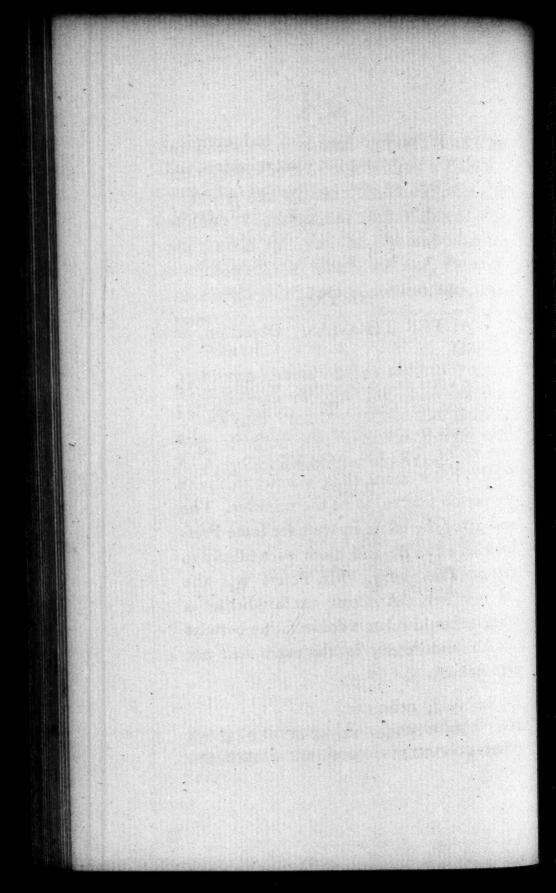
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gations it appeared that they had exercised the power of turning out their ministers, and for no fault; in others, they did not know that they had any fuch power-all agreed, that, if they did not approve his conduct, they might withdraw their subscriptions.

and at Rockhampton in pop WALTER THOMAS. Objection, no freehold.

The voter was a diffenting minister—the estate was in trust. The trustee applied the profits to the use of the minister, who was called by the congregation. "call" is no more than a letter to invite the person sent to, to be the minister. The will gives the estate in trust for some Presbyterian church, and more particularly to that of Thornbury. Mr. Peters was the last minister. A debate arose whether a witness should relate a conversation betwixt himself and Peters, as the voter had not been prefent.

Refolved, nem. con.

THAT THE WITNESS BE EXAMINED AS TO THE CONVERSATION WHICH PASSED BE- TWIXT HIMSELF AND MR. PETERS, TOUCHING THE APPOINTMENT OF A NEW MINISTER.

Mr. Peters had been turned out against who was one of the Frustees of the meeting the his will, and complained to the witness of the injustice done to him. The witness vays of peters declared he did not go out woluntaries but was force mt. The winess add you he knew of no bad behave in paters JOHN THOMAS. Objection, no

freehold.

The voter was a diffenting minister. The congregation he belonged to had, for twenty years and upwards, two ministers at one time; but, thinking one sufficient, had called a general meeting, and by show of hands turned out Mr. Needham, much against his will.

38th Day.

RICHARD ROBERTS. Objection, mother a special les on the premises for which he both no frechold dower unaffigued the some of the some of the same of the same of the same of the baniel was owner of the house, but had left the combusto second

Daniel was owner of the house, but had been missing some years. The voter married his supposed widow. The eldest son of Daniel claimed, and offered to sell the house—he was brought as a witness, but objected

AB. The Voter had been in Popeysion upwards of 20 years: I the son of Daniel had never setup any Claim. But upon his examination say's he apprehended himself to be intitled, I that the voter had once said he would give the House up to him, if he would go and live in it.

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fon the but Red

The Evidence in Warner's Case was this: The Petitioner on 420. Tebry produced a Conveyance dated 5. June 1775 (which was within 12 months of the Election) between Mary Warner (the Voters Mother) of the one part, and the Voter of the other part. This Deed recites that the said Mary was intitled to the Dremes Voted for, for her Life, Dower, or some other Estate. Then in Consideration of \$49. Said (Mary

objected to, as his evidence would tend to prove his own right.

Resolved, nem. con.

THAT, CONSISTENTLY WITH THE FORMER PROCEEDINGS OF THE COMMITTEE IN SIMILAR CASES, DANIEL MAY BE EXAMINED AS TO THE RIGHT HE CLAIMS IN THE ESTATE FOR WHICH RICHARD ROBERTS POLLED.

LEWIS PRITCHARD. Objection, no freehold.

He married the daughter of a woman faid to be in possession of a chattel-lease from Mr. Langton. It was not proved that the voter claimed under this lease, as it never was in his possession: the lease was therefore objected to as evidence.

Moved,
THAT THE LEASE BE READ IN EVIDENCE.
Aye 1, Mr. Penruddock. Noes 12.

39th Day.

To Subflantiate THOMAS WARNER.

of in no freehold or not having been in pope for in facilis
him use 12 Calean or protection A deed

A deed produced, by which the mother fold her interest in the estate to the

The petitioner's counsel chieffed, that from the deed, it must appear that the mother had the whole of the premises, as well as the dower, or she could not have fold them for 49 pounds; and, as the deed was dated face the election, the voter could have no right from it.

It was answered, that the deed plainly conveys dower, the other words in the deed being of course, as it is always meant to convey every interest in the person conveying; but that it did not appear that the widow had any other interest than her dower.

Moved.

THAT THERE IS NOT SUFFICIENT EVIDENCE TO PROVE THAT MARY WARNER HAD ANY OTHER ESTATE IN THE PREMISES THAN WHAT SHE MIGHT CLAIM AS DOWER.

Ayes 7.

Sir Geo. Robinson, Mr. Phelips, Mr. Morant. Mr. Finch, Mr. Halliday, Sir Cecil Wray. Mr. Penruddock,

Noes

Many Warner conveys the same Premises to the Voter, To hold to him this Heirs for the Life of the said Many Warner & all such other Right, Title, Dower, and Interest as She had therein - The Witness say'd he believed the premeswere worth about 3 or £4 a year.

Wote, when two Biggs proved that the premes were sold by Auction 3. May 1775. that the Dotor & his mother Lived together in the House, but that the Mother had become Jusol-went & absconded before the Sale; that the Voter had certainly been in possession from S. 3. May (35 this was some what more than 12 months before the Election) — The Witness said he believed the Estate had belonged to voter's Tather, and that the mother was intitled under some Will, but admitted he had never seen such will: That he understood the son had a Right after his Mother's Death. The Witness say'd the Son was Consulted before the Sale & did not object. He says it was not ment in the Anticles of Sale when the Purchaser was to be put into Possession. That he believes the Dotor paid the purchase

That premes were about & 4. alyear.

Money to him about July 1775.

The Rates for 1775 produced, by which it appeared that the Voter himself was rated.

The Sitting Members Agents certainly considered that under the Assolution upon the Clerks Minutes, Warners rote was substantiated.

Noes 6. I will behale a

Mr. Cleveland, Mr. Powys,
Sir W. Cunynghame, Mr. Johnstone,
Mr. Owen, Mr. Elwes.

Moved,

THAT, ON THE EVIDENCE BEFORE THE COM-MITTEE, THOMAS WARNER WAS INTITLED TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

Ayes 6.

Sir Geo. Robinson, Mr. Phelips,
Mr. Finch, Mr. Powys,
Mr. Penruddock, Sir Cecil Wray.

Noes 7.

Mr. Halliday, Mr. Morant,
Mr. Cleveland, Mr. Johnstone,
Sir W. Cunynghame, Mr. Elwes.
Mr. Owen,

N. B. The first of these resolutions only was read to the court, which deceived both parties; the sitting member concluding, that, if the voter's mother had no right to the estate, the son must have a right to vote; whilst the petitioner, in whose favour the vote was actually determined,

H 3

concluded

concluded he had lost it; the last refolution being contrary to the premises established in the first.

40th Day.

EDWARD SHARP. Objection, no freehold.

An agent of Mr. Chester's was produced as evidence of what the voter said to him at the poll, in answer to a question asked about his freehold.

This was objected to, the witness being an attorney to the voter, and, as such, could not give evidence without betraying the considence reposed in him.

Replied, that the question was general, and not confidential.

Refolved, nem. con.
THAT THE WITNESS BE EXAMINED TO SUCH CONVERSATION.

HENRY SMITH, Objection, no freehold.

Stephens was in possession in 1711— Browning married his daughter, and devised * This agent was ell Gardner who gave in Evidence that upon the Voter's coming to Pole, He asked him what Estate he voted for? To which Sharp answered for the "Estate I bought of William Penley".

A BANGAR SAN CONTRACTOR OF THE SAN CONTRACTO

X Exam? He say'd he had been sharps Attorney that prepared the Conveyance to the Voter. But the Witness added that if he had not been the Voters Attorney he sho? have asked the Question; for that He enquired of everyone that came to Poll, how they came by their Estates.

Smiths Case . 1. July 1678. Ann Stafford demised the premes voted for to Thomas Stephens for 079 years.

Matthew Archer proved Stephens in possion in 1711. I from thence to his Death with happened 20. Oct 1728. — That after that He remembers wom Stephens the Son of Thomas in Possession.

He proved further that he remembered rom Browning who married a Daughter of Old Thomas Stephens in possion.

and after him Toseph Browning their Son who was Grandson to Old Thomas Stephens.

Christopher Gardner said that the Voter told him, the Premises he Voted for came to him by the Will of Joseph Browning. The Witness produced the before mentioned Deed of 1st July 1678. And said We Smith the Mortgages of part of the Premises comprised in it, gave it to the Witness. The Witness said the Voter told him the Premes he polled for, were Thomas Stephenis: That He read the Description from the Deed & the Voter say'd it described the premises. — The twitness say'd the Voter told him he knew nothing of the Deed That He did not say that the produced Deed was the one he held under.

vised the premises to the voter. A deed was offered in evidence, being a conveyance of the estate to Stephens.

This was objected to, as neither the purchase-deed of the voter, nor of the perfon he claimed from.

It was answered, that the title was deduced from the person (Stephens) who was in possession, and the deed described the premises.

It was replied, that the deed was never in the voter's hands, nor did it appear that he knew any thing about it.

Moved,
THAT THE DEED BE READ IN EVIDENCE.

Ayes 7.

Mr. Finch, Mr. Powys,
Mr. Penruddock, Mr. Johnstone,
Sir W. Cunynghame, Mr. Elwes.
Mr. Phelips,

Noes 6.

Sir Geo. Robinson, Mr. Owen,
Mr. Halliday, Mr. Morant,
Mr. Cleveland, Sir Cecil Wray.

H 4 THOMAS

THOMAS GILLMAN. Objection, no freehold.

Refolved, and market and and to the

THAT, IT APPEARING TO THE COMMITTEE,
THAT THE DEEDS OF GILLMAN'S ESTATE
ARE IN MORTGAGE TO NICHOLS, WHO
HAD NOTICE, BUT NOT PRODUCED THEM,
THE COMMITTEE ARE OF UNANIMOUS
OPINION, THAT THE COUNSEL BE PERMITTED TO PRODUCE PAROLE EVIDENCE
OF THE CONTENTS.

JOSEPH GAZZARD. Objection, no freehold of the value of forty shillings.

The counsel opened that he should prove that the voter had no freehold at all.

This was objected to, as the objection manifestly went to the value only.

It was answered, that it certainly was competent to prove that the voter had not a freehold of forty shillings a year, by proving that he had no freehold—that in the Yorkshire petition, before the House of Commons, the very same point had been agitated, and determined in favour of the evidence.

Gilman's Case

He purchased of Cornelius Martin, & by Demise dated 13 Cite 1768. The Estate is convey'd to the Voter from the date thereof for 999 years to Anonow.

This Deed was in the hand of Henry Nichols a Ground age who was served with a Notice to produce it & a Summons to attend. At the Time of Serving Nicholls he permitted an Extract from the above Deed to be taken.

Nicholls attended under the Summons, but did not bring the Deld with him, alledging that as an Extract thereof had been taken, he did not apprehend it to be necessary. He say'd he showed the person who took the Extract both the Deeds which he had of the Wolen, that there was only one besides the Mortgage Deed, Withat that one was for 999 years to Mornow.

Upon this luidence Comme resolved as in the Text.

The Objection to Garrard was conceived in these Words.

" Not having a Treehold Estate of the Clear . Yearly walue of "Jorty Shillings according to the Statute"

The Fact turned out to be that the Primes voted for were of much greater Walus than 40. a year, but that the Woter had not a Treehold Interest therein.

Observation .

If this was Res integra, there are some Reasons might be urged for negativing the Resolution in Gazzard's Case. It Because, the Objection "Not having a Treehold Istate of "the clear yearly value of 40. according to the Statute".

was certainly understood by the Sitting Members Agents at the Time of framing it, to go to value only, & not to a want of Freehold.

2 dly As an Evidence of this, whenever they meant to object to a rount of Freehold, the Objection was conceived in these words, "Not having a Freehold Estate in the pre"-mises voted for,"

Because the objection in the principal Case, conduding "according to the Statute" seems to point immediately to the Statute of the 8th of Hen: 6th by which the forty Stillings a year Freehold is required.

Many Persons had Voted at the Section in respect of Dower Unafrigued: And the prevailing Opinion being in favour of their Right, the Objection made by the Sitting Member to these, was aimed in most instances at the Value, I not at a want of Treehold. Other persons as well as Gazzard were also objected to by the Sitting Members Agents on the Idea of not having a Sufficient Freehold, who twend out afterwards to have an Estate of more than 40. a year, but to have no Treehold therein.

And therefore Me Chester's Agents were under considerable apprehensions least they sho? have been precluded under the words of the Objection in Gazzard's Case, from giving luidence of a want of Freehold.

If they had near 20 of the Petitioners Votes, which under the Aesolution in that Case, Vin Consequence of the Determination in Baileys Case h 47. "that Dower unassigned did not give "a Right of Voting". were successfully attacked by the sitting Member could not have been gone into. -

The following refolution, in the very words of the above-mentioned one in the Yorkshire case, was moved:

* THAT THE COUNSEL BE PERMITTED TO * See the preced, GIVE EVIDENCE AS TO JOSEPH GAZZARD'S HAVING NO FREEHOLD AT ALL; TO WHOM THE SITTING MEMBER'S OBJEC-TION, IN THE LIST OF OBJECTIONS, WAS. "THAT HE HAD NOT A FREEHOLD OF THE ANNUAL VALUE OF FORTY SHIL-LINGS." HIM IN WATERING TO PROTE

"Observation

Ayes 8.

Sir Geo. Robinson, Mr. Phelips,

Mr. Finch, Mr. Powys,

Mr. Halliday, Mr. Elwes,

Mr. Penruddock, Sir Cecil Wray.

Noes 5.

Mr. Cleveland. Mr. Morant, Sir W. Cunynghame, Mr. Johnstone. Mr. Owen,

41/ Day.

PHILIP LOOK. Objection, no freehold.

Parole evidence was offered of a deed. This This was objected to, as notice had not been given in "writing" to the witness (in whose custody it was) to produce it.

It was answered, that the witness owned he had a verbal notice, which was as good as one in writing.

Resolved, nem. con.

THAT THE WITNESS BE NOT PERMITTED TO GIVE PAROLE EVIDENCE OF THE DEED, AS NOTICE HAD NOT BEEN GIVEN HIM IN WRITING TO PRODUCE IT.

To substantiate the vote of JOHN ALLOWAY, against whom the objection had been that he voted for an annuity not registered.

A deed was produced, in which the voter fells his estate to his son for 99 years, referving to himself a life annuity of thirty pounds a year, for which he voted.

It was objected, that he ought to have voted for the estate, and not for the annuity.

It was answered, that, having the freehold in himself, he might have voted for either—that the objection taken to his vote

Observation

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for ote The Grant to the Son being of an Interest inferior to a Inschold, the Reservation out of it could not possibly be a Freehold. The Stream cannot flow higher than the Fountain-head.

If the Objection had went to a want of a Treshold in the Thing Voted for, the Vote must, I conceive have been struck of: But only going to a want of Registration, I it turning out to be a Reserved Rent, to which the Act of the 3. Geo: 3 C 24 was held not to extend, the Objection of course fell to the Ground.

Notice . One of the Trustees attended the Committee under a Summons. He day's he deliver's the Deeds to Mr. Wyat a Triend (not an agent) of ill. Chester's, and an Abstract was taken. But the Witness senied his ever having notice to produce the Deeds before the Committee On the contrary he say'd he had asked Mr. Wyatt if he should bring them, who had told him it would not be frudent so to do. The Witness added that the Deeds were then in the hands of his partner & C? Trustee.

On the other hand a witness Swore that he left a Notice in writing at the Trustees Souce for the production of those Deeds before the Committee.

On his being further examined he say'd it was his custom to mark down in a Memorandum Book most people (not every one) when he served them with Notices. He acknowledged thathe did not find the Trustees Name in this Book.

Upon this Evidence it was natural for the Committee to incline to think that the last Witness might be mistaken with respect to the Notice: And then the Resolution above mentioned followed as of Course. was, that his annuity was not registered; and that he had proved that it was a referved rent, which did not require it. Had the objection been "no freehold," it would have been fatal.

Resolved, nem. con.

THAT NOTHING NOW APPEARS TO IMPEACH THE VOTE OF JOHN ALLOWAY, UNDER THE OBJECTION TAKEN TO HIS VOTE.

SOLOMON CLOSE. Objection, not twelve months in possession.

Regular notice had not been given to the trustees of the mortgagee to produce the deeds. Parole evidence of their contents being offered,

Moved,

THAT THE SITTING MEMBER'S COUNSEL BE NOT ALLOWED TO PRODUCE PAROLE EVIDENCE OF THE CONTENTS OF THE VOTER'S DEEDS, NO REGULAR NOTICE HAVING BEEN GIVEN TO THE MORT-GAGEE IN POSSESSION OF THEM TO PRODUCE THEM.

Ayes 11. Noes 2.
Sir Geo. Robinson,
Mr. Halliday.

42d

42d Day.

JOHN STANLEY. Objection, no freehold.

The voter had sent his deeds to Mr. Gardner to peruse and take extracts: these extracts were offered in evidence, and proof given of notice to the voter to produce the originals.

This was objected to, as no notice had been given to Mr. Gardner, in whose custody they knew the deeds were, but was given to the voter, in whose custody they were not.

It was replied, that the <u>legal possession</u> of the deeds being in the voter, it was to be presumed they were returned to him, having been in Mr. Gardner's possession for the purpose only of perusing and taking extracts.

Resolved,

THAT THE EXTRACTS OF THE VOTER'S DEEDS
BE ADMITTED IN EVIDENCE.

In Stanley's Case . It was in widence that the Vota sayd to sent the Deed under which he voted to a Mr. Gardner of Painswith a Friend of Mr Chaster's in order to be inspected . This Deed was sent by Mr. Gardner of Painswick to my Gardner of Minchin-- hampton, (an Agent of Me Chester's) whose Clerk took the Ca--tract offered in Evidence . The Witness say'd that as som as the Ex-- hack was taken the Deed was sent back to IN. Gardner of Painwick & that it was about 2 Months since . - That the Witness about a fortnight afterwards Served the Voter with the wal hotice to produce his Deeds; & at the same time Yead to him the Extract he had taken therefrom: and that the Voter then acquainted him of the circumstances of his having sent his Deed to Milandner of Painswick as before stated , & acknowledged that the Extract produced was of the Deed & premises he had voted for.

The Witness say'd he had given M. Gardner of Prinswick no notice to produce the Deed.

Observation .

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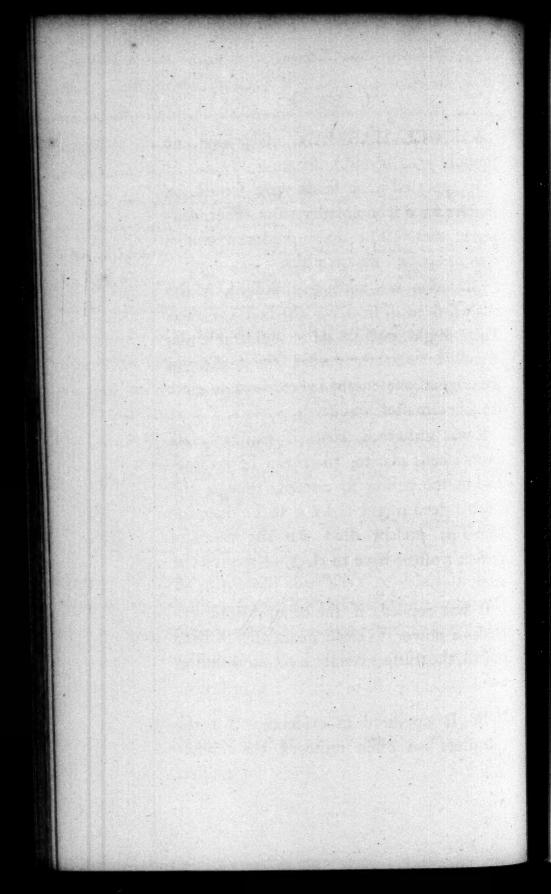
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If the Deed had been in the Hands of M. Gardner of Painswick, as Trustee mortgagee 4.0, so that the legal Possession migh have been said to be out of the Voter, then the Extract could not have been read without proof of Notice having been given to him to produce it.



SAMUEL HARMAN. Objection, no freehold.

It appeared that lands were fettled on trustees for a schoolmaster, and other charitable uses. The deed produced was a deed to appoint new trustees.

Objection was taken to this deed, as the original deed of trust was the best evidence. There might possibly be a considerable difference betwixt the deeds; the trustees in the original one might be confined to elect the schoolmaster for life.

It was answered, that, if trustees elect durante bene placito, there can be no freehold in the person so elected, though the original deed might order it to be done for life—The present deed was the title the present trustees have to elect, or receive the rents.

It was replied, if the original deed expresses a power to elect quam diu se bene gesserit, the trustees cannot elect for a shorter time.

N.B. It appeared in evidence, that the trustees had often removed the school-master,

master, and never doubted their power so to do.

Refolved, nem. con. di bonnoque

THAT THE ORIGINAL DEED OUGHT TO HAVE BEEN PRODUCED, AND THAT THE COMMITTEE DO ALLOW FURTHER TIME FOR THAT PURPOSE.

THOMAS TROTTMAN, jun. Objection, no freehold.

A deed was offered in evidence from one "Butcher" to the voter—this was objected to, as Butcher was never proved in possession. The Deed was delivered to the witness by the Montgague of the Premises.

Moved,

THAT THE DEED BE ADMITTED IN EVIDENCE.

Ayes 12. No 1, Sir Cecil Wray.

JOHN BUCKINGHAM. A rejected vote.

It appearing in the list of objections that none had been made to the voter's not having tendered his vote, the sitting member's counsel were not prepared to prove it.

The

Note. That a Witness proved possession in the voter ander the Deed from the year 1712. The Time it bears Date.

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Commercial particles in the second The petitioner's counsel said this ought to be done—that the petitioner had always been put to such proof.

It was answered, that this had been in cases where the objection had been made. However, Mr. Berkeley consented to wave it in this case.

The committee withdrew—and it was moved,

THAT, NO OBJECTION HAVING BEEN STATED, IN THE LIST OF OBJECTIONS DELIVERED IN BY MR. BERKELEY OR HIS AGENTS, AS TO THE TENDER OF JOHN BUCKINGHAM, NOT-WITHSTANDING THAT CIRCUMSTANCE APPEARS STATED AS AN OBJECTION TO MANY OTHER VOTES, THE COUNSEL FOR THE SITTING MEMBER BE AT LIBERTY TO PRODUCE EVIDENCE TO SUBSTANTIATE HIS VOTE AS TO THE OTHER OBJECTIONS DELIVERED IN, WITHOUT BEING PUT TO THE PROOF OF THE TENDER.

Some gentlemen in the committee, defirous of accepting Mr. Berkeley's concession, Moved,

THAT THE QUESTION BE NOW PUT.

or mano side bist Ayes 24 renotities of I

Mr. Finch, Mr. Johnstone, Mr. Halliday, Sir Cecil Wray.

Noes 9.

Mr. Powys, Sir Geo. Robinson, Mr. Elwes, Sir W. Cunynghame,

Mr. Penruddock, Mr. Phelips, Mr. Morant, Mr. Owen.

Mr. Cleveland, WAR VOLTONISO OF THE

JAMES MANNING. Objection, no freehold.

A witness had his father-in-law's will in his pocket, but refused to produce it; at the same time effect to give parels evidence of its contents.

Moved, when the same sound

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THAT JOHN LUCAS, TRUSTEE OF THE WILL OF WILLIAM ROWLES, WHICH WILL HE REFUSES TO PRODUCE, BE EXAMINED AS TO ITS CONTENTS.

Ayes II.

Noes 2.

Mr. Finch, Mr. Elwes.

The

Sh. This will had not been proved but was in the Hands of the Witness (one John Lucas) who was a Trustee therein. Mr. Chester's Agents had obtained a Sight of this Will & got an Abstact of it, & then served Lucas with a Jummons to Attend the Committee & with a hotice to produce the Will.

And also summoned one of the Subscribing Witnesses to prove the Execution .

Lucas was in the Interest of the Petitioner (for whom three persons that were attached under a Devise in the twill to the seperato Use of their wives had Voted) and instructed by one of his Agents not to produce the Will unless the Committee insisted upon it. Ac follow'd those Instructions, which occasion'd the Committee to come to the above Resolution.

After having come to it Rowles was examin'd; Vafterhim the Person that had took the Abstract gave bridence of the Contents of the particular Devise to Trustees to the seperate Use of the Voters wife, having previous to Lucas's Examination proved giving Notice to the Voter to Produce his Title, I the Voters ack nowledgment of having polled for what was so given to his Wife under such Will.

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* Which Indorsement (being the Inemorandum of Livery of Seizin being duly executed) was attested by Coxthe Voter, whose acknowledgement of that Fact was incontestibly proved — The Voter therefore having attested what gave blect to the Produced Lease, & acknowledged he Voted for the Premes contained in such Lease, there can be redoubt as to the propriety of the Resolution the Committee came to.

If the Voter had not attested Livery & Seizin & Livery had not been proved it is a doubt to me whether this Lease could have been read to avoid the Title to which the Voter Swore when he took the Treeholders Oath, without an actual proof of the Surrender 2 Role Ab. 678.

But Mr Pitts being proved to be put into possession of the Fact of his being so attested by the Voter, is certainly good Proof as against the Voter of the Surrender recited in the Lease. 2 Rol: 681.

If a Deft will take advantage of the Recital of a former grant as proof of such former grant, he will be bound by the recital of the Surrender: for if he will take any advantage of the recital, he must admit the whole: but if he produces the former Patent, that will put the PUT to produce the surrender. 2 Vent: 170.

The committee debated whether to alk leave of the house to adjourn over the Easter holidays.

For the adjournment 6.

Mr. Finch, Mr. Powys,

Mr. Halliday, Mr. Johnstone,

Mr. Morant, Mr. Elwes.

Against it 7.

Sir Geo. Robinson, Mr. Phelips,

Mr. Cleveland, Mr. Owen,

Mr. Penruddock, Sir Cecil Wray.

Sir W. Cunynghame,

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THOMAS COX. Objection, no free-hold.

A lease was produced of the premises, from the Bishop of Glocester to "Pitte"—
the consideration, the surrender of the forwho acknowledged to have noted for the premises in Mr. The Case
mer lease from Cox. This was objected to
as evidence, as there was no proof that the
former lease was surrendered.

It was answered, that the lease recites the surrender of Cox, and that there is an indorsement on the back of it, to put Pitts in possession.

Ì

Refolved,

Refolved, nem. con.
THAT THE LEASE BE ADMITTED IN EVIDENCE.

* JOHN BIRT. Objection, no freehold.

The voter purchased of Moody, who bought (as was alleged) from Hunt, but no deeds appeared executed by Hunt. A counterpart of a lease was offered, from the chapter of Glocester to "Hunt," but objected to, as no proof that it applies to the voter.

Moved,

THAT THE COUNTERPART OF THE LEASE BE ADMITTED IN EVIDENCE.

Ayes 7. Noes 6.

46th Day.

The objection to the vote of THOMAS POPE having been that he had not been in possession of his freehold a twelvementh, and the proof adduced that the deed of conveyance to him had not been executed above fix weeks, though the consideration had been paid,

Hean't Chapter of Glot to one Nom Hunt for 21 years of the primes Voted for . Six or 7 years afterwards Hunt died leaving a Widow, & a Son & Daughter . Premes were valued at \$15. & the Son paid his Mother & Sister \$5 each as their Shares, & took to the Premises . some years afterwards In! Moody (who married the Sister) bought the Premes of his Brot in Law for \$10. no Deed was executed, but only the Sease delivered.

Moody kept it 2 years & then (which is now 12 Mears ago) Sold to the Voter's Tather, & executed some Deed, & delivered the Lease to him. Voter's Tather continued in possession tile his Death, Vaster him the Voter, who is still in possession notwithstanding the Cease expired at Michael 1772.

Moody during the Time he was in possession. paid a Shilling a Year Rent to the Dean't Chapter, but it did not appear that the Voten or his Tather had ever paid any thing

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een aid, The Counterpart of said Lease was then produced as Mentioned in the Text.

COLD A TALL AND REAL PROPERTY. green successful the state of the well- thanks The State of the S and the state of t The state of the s The second of the second secon The second of th the contract of the second of THE REPORT OF THE PARTY OF THE The transfer of the second

paid, and possession given above a year,—a question arose whether the signature of the deed, as it did not go to the original objection, should or should not be accepted.

Moved,

THAT, THE PETITIONER HAVING DELIVERED HIS OBJECTIONS TO THOMAS POPE, AS NOT HAVING BEEN IN POSSESSION OF THE RENTS AND PROFITS OF THE ESTATE HE VOTED FOR ABOVE TWELVE CALENDAR MONTHS BEFORE THE ELECTION, THE COMMITTEE BE AT LIBERTY TO CONSIDER ANY EVIDENCE TO IMPEACH HIS FREEHOLD.

Mr. Johnstone moved an amendment by adding to the question the following words,

CONSISTENT WITH THE FORMER PROCEED-INGS OF THE COMMITTEE.

For the amendment 6.

Mr. Cleveland, Mr. Morant,
Sir W. Cunynghame, Mr. Powys,
Mr. Owen, Mr. Johnstone.

(116)

Against it 7.

Sir Geo. Robinson, Mr. Phelips,

Mr. Finch, Mr. Elwes, Mr. Halliday, Sir Cecil Wray.

Mr. Penruddock,

The main question was then put.

Ayes 4.

Mr. Cleveland, Mr. Owen, Sir W. Cunynghame, Mr. Powys.

Noes 9.

Mr. Morant, Mr. Penruddock,

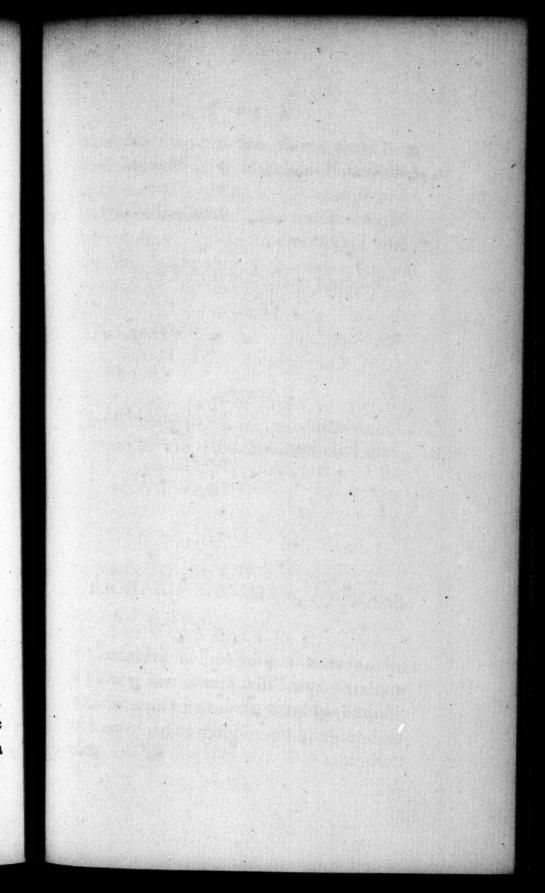
Mr. Johnstone, Mr. Phelips, Sir Geo. Robinson, Mr. Elwes,

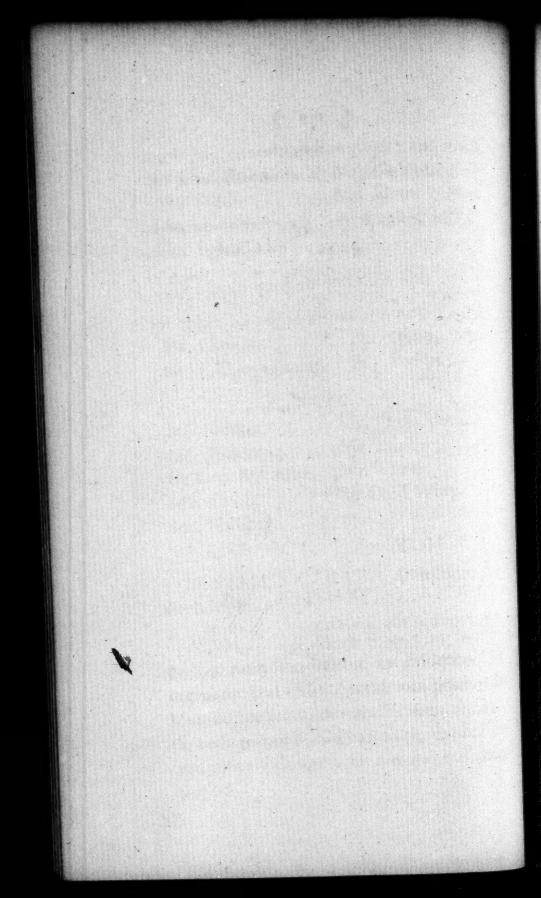
Mr. Finch, Sir Cecil Wray.

Mr. Halliday,

BENJAMIN CARTER. Objection, no freehold.

An extract of a lease from Mrs. Lambe for 99 years was offered in evidence. It appeared that Mrs. Lambe was resident in London, but her deeds were in Glocestershire; that notice had been given to her to produce them





them but a day or two fince; that, from fuch late notice, it was impossible for her to do so.

The counsel for the sitting member prayed the committee to give longer time, that they might again give notice: this was opposed by the petitioner's counsel, who alleged that the others ought to suffer for their neglect.

Moved,

THAT LONGER TIME BE GIVEN TO THE SIT-TING MEMBER TO PROCURE MRS. LAMBE'S DEEDS IN THE CASE OF BENJAMIN CARTER.

Ayes II.

Noes 2.

Mr. Powys, Mr. Finch.

RICHARD KEMSTER. Objection, not rated to the land-tax.

Complaint was made by the counsel for the sitting member, that Mr. Jephson, deputy clerk of the peace, who attended the court as known agent for Mr. Berkeley, and in possession of the land-tax duplicates, had

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been served with notice to produce them to the committee—that Mr. Jephson attended in the court, and expected to be paid a guinea and half per day, by Mr. Chester, for so doing, though at the same time he attended as agent against him—they therefore desired that the duplicates might be put in as evidence.

Mr. Jephson refused this, alleging that by the act of parliament he could not part with them out of his hands.

The chairman (on confulting the act) told him, that, to follow strictly the letter of the act, he could not have brought them to London, as the act directs that they be deposited in the county, and copies used as evidence in the elections. Mr. Jephson still refusing to produce them, the committee

Resolved,

THAT IT IS THE UNANIMOUS OPINION OF THE COMMITTEE, THAT MR. JEPHSON, DEPUTY CLERK OF THE PEACE FOR THE COUNTY OF GLOCESTER, WHO IS NOW ATTENDING, UNDER THE SUMMONS OF THE CHAIRMAN, AT THE DESIRE OF THE SITTING MEMBER, WITH THE DUPLICATES OF THE LAND-TAX,

I

The Premises Darke Voted for formerly belonged to Hemy Lloyd, whose Daughter the Voter married.

also, industrial a second of the Late Males (see

Lloyd in the year 1768. levied a Hinethereof, Vby Deed dated 2. August in that year, the uses are declared, to himself & Wife for their respective Lives, 12 cm. to the Voter's wife in Hee.

The Tenants for Life both died, more than 12 month's before the Election, consequently the Voter (his wife being living) had an indisputable right of Voting.

Leayed having a Son, who was his Heir at Law, and the Petitioners Agent not knowing, perhaps, of the Deed Hine, and thinking that the Estate belonged to the Son, objected to Darke as not having a Freehold, and in Support of such Objection proved that the Premises were formerly Henry Lloyds, and that there was a Son of his Living

This put the Sisting Member under the necessity of proving the Deed and producing the Tine above Stated.

Upon producing the Chirograph of the Time the objection ment in the Textwas taken, the I cannot see upon what ground fait is certain that the Chirograph of a Time is of itself Evidence

WHICH HAVE BEEN TRANSMITTED TO HIM FROM THE COMMISSIONERS, AND HAVING PRODUCED SOME OF THEM IN EVIDENCE, BE DIRECTED TO DEPOSIT WITH THE COMMITTEE CLERK, FOR THE PURPOSE OF BEING USED IN EVIDENCE, ALL THE LAND-TAX DUPLICATES IN HIS POSSESSION.

48th Day.

To fubstantiate THOMAS DARK.

Henry Lloyd, father of the voter's wife, levied a fine, to his own and his wife's use, then to the use of the voter's wife.

The parchment said to be the fine was objected to as evidence, as it did not appear to have been examined with the records in the common-pleas.

It was answered, that this was not a fort of deed easily forged, as a forgery could be immediately detected by comparing it with the books.

The committee confented to hear it read, on condition, that, if it should not be usually admitted without examination, the agent should examine it, and report the fact.

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WILLIAM

WILLIAM HUGHES. Objection, not 2 months in possession.

sir William Codrington was the mortgagee in possession—the evidence, who was tenant of to the voter, offered to produce receipts for the rent from Sir William's steward. This was objected to, as not evidence against the voter.

Refolved, nem. con.
THAT THE RECEIPT BE ADMITTED IN EVIDENCE, TO CORROBORATE THE WITNESS'S
PAROLE TESTIMONY.

BENJAMIN PEIRCE. Objection, no freehold, the place he voted for not being in the lift, in the booth where he polled.

The sheriff is obliged to fix on each booth a list of all the hundreds, towns, villages, and hamlets, to be polled in such booth, and the poll-clerk is not to admit any person to poll for any place not included in such list, unless such place shall not have been included in any other.

of such Fine; and for this teason, because the Chirographer is an Officer appointed to give out Copies of the agreements between the parties that are loaged of Record; and comes within that well known tule that where the Law appoints any Person for any purpose, it trusts him as far as he acts under its authority. Had it been necessary to proved the Fine with P. \$ 1700.) Proclamations as must have been the Case to bar a Thanger, the Proclamations must have been examined with the Roll, &Proof given thereof: for the Chirographer though Authorized by the Common Law to make out Copies to the parties of the Fine itself, is not appointed by the Statutes to Copy the Proclamations, & therefore his Indorsement on the back of the Fine is not binding, (Allen's Case 13 Card. 1. 51 S. P.) - But in the present Case the Son was a privy not a Stranger to the Fine, as he could only Claim through the Cognizor . Being so the Chyrograph itself without the Proclamations, was Sufficient, & consequently admissable in Evidence for the purpose for which it was produced.

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As. The Will alluded to was Rowless mentioned in In! mannings Case p: 112. If the Witness, John Lucas, who is also mentioned in that Case. This Will as is mentioned before, affected 3 Notors, who having polled for Estates lying in different Hundreds, the Consideration of their Cases came on not altogether but at three different Times, some distance one from the other.

* Upon In Berkeley's doing so, Lucas was called in and Swom: and the Question again put to him, Whether he would produce the Will or not? He peremptorily repused to produce it.

As the poll-clerk had admitted him to vote, though contrary to the directions of the act, the committee were unanimous that he ought not to lose his vote, and therefore over-ruled the objection.

Mr. Arden represented to the committee, that one of his witnesses had a will in his pocket, which he refused to produce—that it affected several votes—that he was under a necessity to keep a witness, at a considerable expence, in town, to give parole evidence of its contents—he therefore desired that the witness might be asked, "Will you, at any time during the trial, produce the will?"

This was objected to by Mr. Morgan, as contrary to the mode of examination—The committee heard this with indignation, as it could answer no purpose, but expence to the sitting member. The next day, Mr. Berkeley very handsomely waved the objection.*

ROBERT WHITE. Objection, no freehold.

In the poll-book the voter had given in his

his freehold as a rent referved—the counsel offered to prove it to be a rent-charge not registered.

The petitioner's counsel objected to this, as the objection taken was, that he had not a freehold.

Moved.

THAT, THE OBJECTION TAKEN TO THE VOTE OF ROBERT WHITE BEING THAT HE HAD NO FREEHOLD ESTATE ON THE PREMISES FOR WHICH HE VOTED, AND IT APPEARING IN THE POLL-BOOK THAT HE VOTED FOR A RENT RESERVED OUT OF LANDS, THE COUNSEL BE RESTRAINED FROM OFFERING EVIDENCE TO PROVE THAT HIS FREEHOLD CONSISTED OF A RENT-CHARGE.

Ayes 7.

Mr. Halliday, Mr. Morant,
Mr. Cleveland, Mr. Elwes,
Sir W. Cunynghame, Sir Cecil Wray,
Mr. Owen,

Noes 6.

Sir Geo. Robinson, Mr. Phelips,
Mr. Finch, Mr. Powys,
Mr. Penruddock, Mr. Johnstone:

50th Day.

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The second section of the second section is a second section of the second section of the second section is a second section of the section of

But the Committee in this Case resolved "That Time be given "to give hotice to the Votor to preduce such abstract"

Observation.

It is observable that a Notice had been given to the votor to produce the Deeds under which he Voted, which in fact were in another
Person's hands, who was also Served with Notice. And therefore
the Question really was, Whether under such general Notice to
the Voter to produce his Title Deeds, the Contents of the Abstract
produced to the Witness (& of which he had taken a Copy) could be
given in Evidence? Or where there ought not to be an express notice
to produce the Abstract before the Copy could be received in Evidence,
In the Case of the Borough of Derby Dong: Vol. 3 p. 3 45. if
appeared that a general Notice had been Served on the Mayor to produce the Indres which at the Time Certain persons applied for admitsion to their Treedom's had been left in his hands.

The mayor had not produced the Indenture of one Thomas Sone, but the Petitioners had a Duplicate of it, wh they produced It appead that the had been bound to one Holmes; & Henry Cowley being called to prove the actual Service, said, that Holmes had assigned him to his (Cowleys) Father whom he had Served the whole of years. We Harrison Swore that the saw both the Indenture & Assignment or turn over, delivered to the Mayor. That he could not say who the turn over was written on the Indenture, or was a detached Instrum.

The Councel for the Sitting Member insisted that such Assignment could not be proved by parole loidence. That, to intitle the Councel on the other Side to Offer such loidence, it was not sufficient to say that the Assignment had been delivered to the Mayor, I that he had not produced it. That it must also be shown that he had received holice to produce it: That a hotice to produce the Intie did not imply a notice to produce the Intie did not imply a notice to produce the Assignment or turn over web for any thing that appeared to the Contrary, was a Separate Instrument.

On the other side it was contended that the Notice was sufficiently Comprehensive, Uplainly must have been understood by the Mayor as extending to all the ... delivered to him by yt Claim! as socidence of their Tilles . And Commer over-ruled the Objection ...

The Commes as it appears were much divided upon the Question . Wherefore it was but Justice, that they gave time to give notice to the Voter for the production of the Abstract.

Ommittee would not, I apprehend, have indulged the party with time.

50th Day.

NATHANIEL POOL. Objection, no freehold.

The voter shewed an abstract of his titledeeds to a witness, and suffered him to take It was objected to the copy of the abstract being produced to the committee, as proper notice had not been given to the voter to give in the abstract itself.

Moved,

THAT, UNDER THE NOTICE GIVEN TO THE VOTER TO PRODUCE HIS TITLE-DEEDS, THE COUNSEL FOR THE SITTING MEMBER BE AT LIBERTY TO GIVE PAROLE EVIDENCE OF THE CONTENTS OF THE ABSTRACT OF THEM.

Ayes 6.

Sir Geo. Robinson, Mr. Penruddock. Mr. Finch, Mr. Phelips, Mr. Halliday, Sir Cecil Wray.

Noes 7.

Mr. Cleveland, Mr. Powys, Sir W. Cunynghame, Mr. Elwes, Mr. Owen, Mr. Johnstone.

Mr. Morant,

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51st Day.

THOMAS ROBINSON. Objection, not rated to the land-tax. e No Freshold

The voter's wife delivered some writings to a witness, who took an abstract of them. This abstract was objected to as evidence, as the voter was not present when his wise delivered them to the witness.

Moved,

THAT, PROPER NOTICE HAVING BEEN GIVEN TO THE VOTER TO PRODUCE HIS TITLE-DEEDS, THE COUNSEL BE AT LIBERTY TO GIVE EVIDENCE OF THE CONTENTS OF A DEED PRODUCED TO THE WITNESS BY THE VOTER'S WIFE (THOUGH THE VOTER DID NOT ACKNOWLEDGE THE PREMISES CONTAINED IN THAT DEED TO BE THOSE FOR WHICH HE VOTED), FOR THE PURPOSE ONLY OF PROVING THAT THE PREMISES FOR WHICH HE DID VOTE WERE NOT RATED TO THE LANDTAX.

Addinsons Pase was this. He had a Scasehold for years, & a Small Treehold House & Garden in the Parish. Therefore the objection, as far as it went to a want of Treehold, was given up. And all that was insisted upon by the sitting Member against whom this Man had Voted, was, that the Treehold was not Nated, To support this, The Rate was produced, the Intry in which was "for late" Hayness".

And then to Shew that "Late Haynes's" was Leavehold for Years. An agent of Mr. Chester's gave an account of his Calling at the Voter's House, I leaving with his Wife, a Notice to produce Deeds, I ofher delivering to him a Deed which he abstracted, This abstract was then Objected to, for the Reasons mentionid in the Text; but the Committee Overruling the Objection, The Witness Hien went on to give an accot of the Deed whereby an Estate was Conveyed to Trustees for a Torm of years to permit one Edward Haynes & the Heirs of his Body to enjoy the Premises in manner therein Inention

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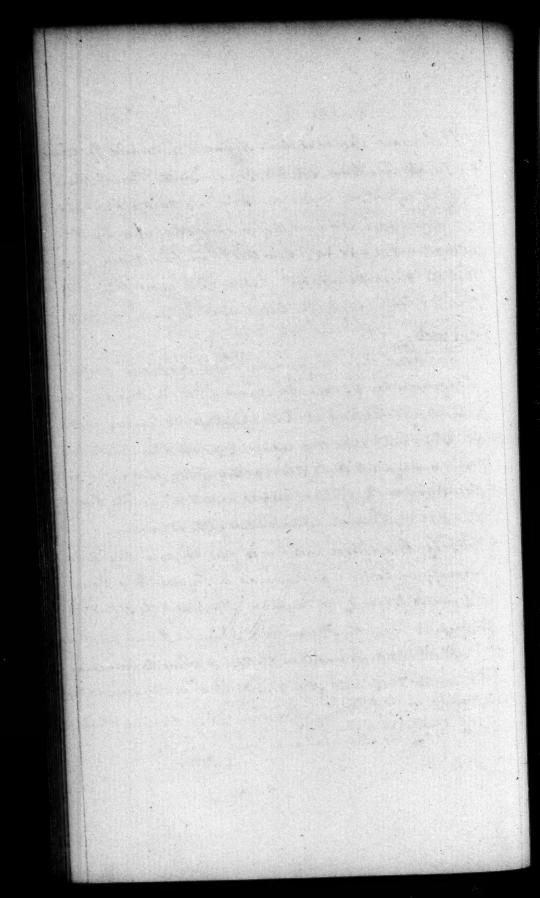
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yes

Another Witness was then Called to prove the Connexion between the Voter and Haynes, which he did by saying the the Voter married many Haynes - Then the line of the Tate, "for late Haynes's" was again read.



Ayes 12.

No 1, Sir Cecil Wray.

Moved, THAT THE ABSTRACT OF THE DEED BE DE-LIVERED IN FOR THAT PURPOSE.

Ayes 10.

Noes 3.

Mr. Finch, Mr. Phelips, Sir Cecil Wray.

THOMAS CLEMENT. Objection, pauper receiving alms.

The overfeer of the poor having given relief to the voter's wife, it was objected as evidence, that it was not brought home to the voter.

Moved, delicate and avairable language.

THAT, CONSISTENT WITH THE FORMER PROCEEDINGS OF THE COMMITTEE, THE COUNSEL BE PERMITTED TO PRODUCE EVIDENCE OF THE OVERSEER'S GIVING RELIEF TO THE VOTER'S WIFE FOR HIS USE.

Ayes 7.

Sir Geo. Robinson, Mr. Phelips, Mr. Einch, Mr. Powys, Mr. Halliday, Sir Cecil Wray.

Mr. Penruddock,

Noes 6.

Mr. Cleveland, Mr. Morant, Sir W. Cunynghame, Mr. Johnstone, Mr. Owen, Mr. Elwes,

JOHN BALLANGER. Objection, no freehold.

In the poll-book of this booth appeared no less than three persons of the name of John Ballanger—the counsel for the sitting member did not know which of them they objected to, and seared that the petitioner's counsel might prove the freehold of one they did not.

Resolved, nem. con.

THAT, AS SEVERAL JOHN BALLANGERS AP-PEAR ON THE POLL, THE EVIDENCE SHALL BE CONFINED TO JOHN BALLANGER WHO POLLED ON THE FIRST DAY. Observations on the Act of 3. Geo: 3 ch. 24. respecting Annuitys & Rent Charges. See also p 127. Havingtons Case.

This Stat. recites that annuity's or Rent Charges granted for Life, or a Greater Estate issuing out of Treehold Lands are of a Drivate Nature, & therefore liable to fraudulent practices in the Election of Linights of the Shire.

Enacts that after 1. August 1764. No person shall Dote in Respect of any Annuity or Rent Charge issuing as aforesaid by granted before 1. June 1763. Unless the Certificate therein mentioned be Intered 12 Inouths at least with be before the first day of such Election.

Enach that no person shall Vote in such Election in respect of any Annuity or Rent Charge issuing as a foresaid which shall come to him by Descent Marriage Marriage Settlement Devise or Presentation to a Benefice in a Church or Promotion to an Office, within 12 Calender In onthe next before such Election, unless the Certificate therein mention'd shall have been entered with Ve before the first day of such Election.

Also Enacts, that after st 1. August 1766. no person shall vote at any such Election in Respect of any Annuity or Mont Charge to be granted after said 1. June 1763 unbfs such a Inemorial as therein mentioned of the Grant of such annuity or Ment Charge shall have been Registered with the Clerk of the Peace 4: 12 Inouths at least before the first day of such Election.

And the same provision is made with respect to Grants of

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The Construction of this act seems to have been .

That Annuities or Rent Charges oreated by Grant must be registered 12 Inouths at the least before the first day of the Election to intitle the Annuitant to a Vote.

That as to Annuities or Rent Charges coming to the Voter by Descent Marriage Marriage Settlement, Devise or presentation to a Benefice in a Church, or promotion to an Office, within 12 months of the Election, a Certificate must be entered with 44 before the first day of such Election.

But that Annuities or Rent Charges coming to the voter in either of the ways last mention'd more than 12 Inouths before the lection, donot require to be registered or entered at all, as was in fact determined by the Committee in Harringtons Case above mentioned and several others.

That a Freehold Rent reserved to the Grandor out of his Estate at the Time of his Selling or otherwise Conveying away that Estate, & reserved in the Grant itself, is part of his Original Dominion & does not require to be registered within the meaning of this Act of Parliament.

52d Day.

To substantiate the vote of SAMUEL HARRINGTON, to whom the objection had been that he voted for an annuity not registered.

One Merriman pays from his estate a formation of five pounds per annum to the voter: it formerly was paid to Dee Dee, bequeathed it to the voters, It was contended, that an annuity coming to the voter by will, and not by grant, does not require to be registered, as a right cannot be taken away in an act of parliament, but by express words.

Resolved, nem. con.

THAT THE ANNUITY FOR WHICH SAMUEL HARRINGTON VOTED, AND WHICH DE-VOLVED TO HIM IN 1762 BY THE WILL OF JOHN DEE, DOES NOT REQUIRE TO BE REGISTERED.

WILLIAM MOSS. Objection, no freehold in the premises for which he voted.

The voter had given in his freehold as

fituate in the parish of "Guiton-Power" the counsel proposed to give evidence that he had no such freehold in that parish as described in the poll-book. This was objected to, as he might have a freehold in another parish.

It was answered, that, having described his freehold at the election, if it could be proved that he had no *fuch* freehold, it would be sufficient to vitiate his vote.

Moved,

THAT, WILLIAM MOSS APPEARING ON THE POLL TO HAVE VOTED FOR LANDS IN THE PARISH OF GUIT POWER, IN THE TENURE OF WILLIAM COLE, AND THE OBJECTION TAKEN BEING THAT HE HAD NO FREEHOLD IN THE PREMISES VOTED FOR, THE COUNSEL FOR THE SITTING MEMBER BE AT LIBERTY TO ADDUCE EVIDENCE TO PROVE THAT HE HAD NO FREEHOLD AS SO DESCRIBED. **

Ayes 10.

Noes 3.

Mr. Cleveland, Mr. Owen. Sir W. Cunynghame,

55th Day.

N3. The most proper Objection would have been "having "no such Freehold as described on the Poll."

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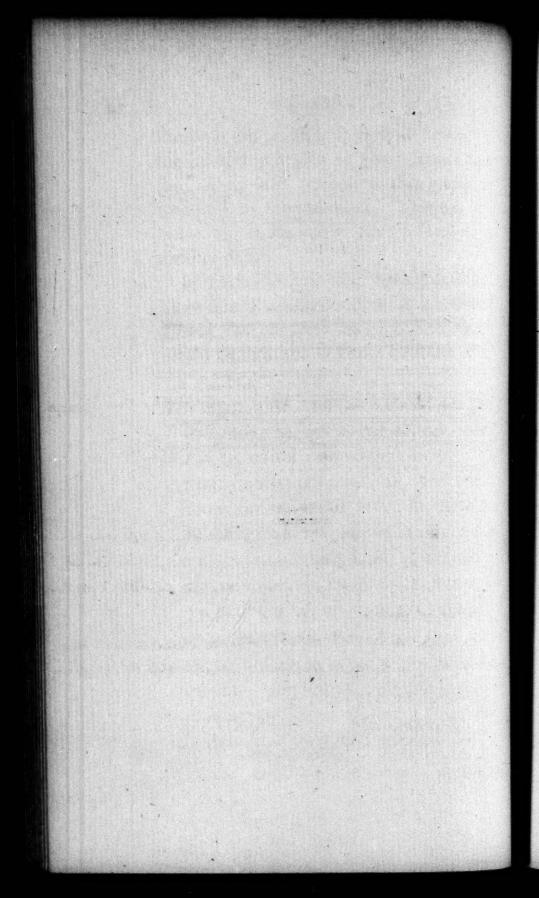
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Day.

* Accordingly Tom Cole the Tenant described upon the Poll was produced and proved that he rented no Land of the Voter in Guiding power: I that in fact the Voter had no Land there.

X Exam " - Say'd he Rented Land of the Voter at Nauniton a parish distant about a Inile & half from Guiting power.



55th Day.

THOMAS LAWRENCE. Objection, no freehold.

The voter's father by his will gives his estate to a trustees, to pay six shillings per during his life week to John, his eldest son, an ideot, and assisted Deard of John on grow decurity given by said Thomas the remainder to his second son the said Thustee who was to be put into immediate posses, and shirt being should convey the said Fremises of the said from by the trustees. As siving security to Thomas Lawrence the voter to hillings per week to Was in possession this Brother lived with him, tour was in possession this Brother lived with him, tour was in possession this Brother lived with him, tour was in possession the said the trustees put him in polyment, for said six Shillings a Week.

It was objected, that though not intitled to have the premises aligned to him till he had given security, yet he had an interest of more than 40 shillings a year in them for his life.

It was answered, that this would not prove him to be owner of an house and land for which he had voted—But he is neither intitled in law or equity—he cannot call on the trustees till he has given security—No cestui qui trust can vote, but K

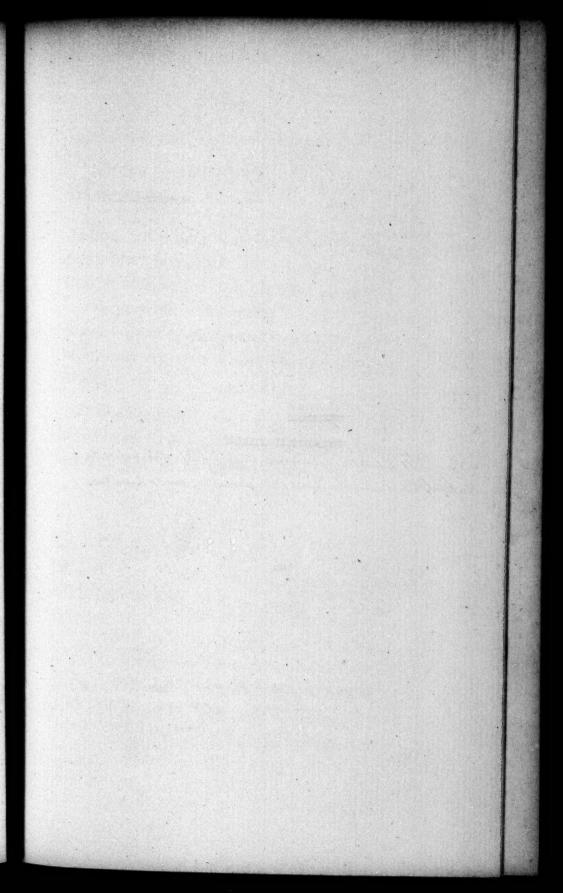
fuch as have a right to an immediate conveyance—the trustees can let the premises, and are liable to be called to account for the profits.

It was replied, that, though the legal eftate was not in the voter, yet he had an interest in the overplus. The act of William means to give a right to vote, as enjoying a profit out of lands, though not in immediate possession.

Resolved, nem. con.

Lawrence, the father, haveless in the profits thereof six shillings per week to his son john, with the reversion to his son thomas, on the death of the said john, or the giving security to the trustees to pay the said six shillings per week, which he has not done, the committee are of opinion, that thomas lawrence has not such an interest in the premises as the intitledhim to vote at the last election for the

COUNTY OF GLOCESTER.



N3. The Testator died more than 12 Inonths before the blection, otherwise the want of Registration would have been fatal.

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JOHN LAWRENCE. Objection, not which he worked as intitled him to a work, which he worked as intitled him to a work. This voter was the ideot who was the elder brother of the last-mentioned Thomas Lawrence, and was intitled to six shillings per week by his father's will. It was contended, that, as the trustees might take a

varied, it was not a freehold.

It was answered, that the father meant him a land security, and the trustees would not be justifiable in taking a bond.

bond, and by that means the fecurity be

It was replied, that the will mentioning "good fecurity" does not necessarily imply land—besides, even a land security might be in another county, and consequently not intitle him to vote in the county of Glocester.

Resolved, nem. con.

THAT JOHN LAWRENCE HAD A RIGHT TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

56th Day.

To substantiate the vote of NATHANIEL LONG. who Voted for Houses & Lands at Kley in the possession of Thomas pierce and others.

The objection taken to the voter had been, that he had no freehold; and the proof, the reading a part of a will from his father, which gives all his leasehold estates to the voter.

The fitting member's counsel now produced the same will, and read another part of it, in which he bequeaths him a freehold. The description given at the election was, "in the occupation of Peirce and others." To this objection was made by the petitioner's counsel, that the lands in occupation of Peirce were proved to be leasehold, and that the value of the freehold did not intitle him to vote.

It was answered, that, if the description will but in any way include the voter, it is sufficient; the original objection being only to "want of freehold," not to "description or value."

By this part of the Will Testator devises his Leashold mejouages Lands and Tenements at Whey in possessions of Thomas Pierce Sam! Hopkins In! Birt & In! Garlick to the Voter and others.

By this part of the Will Testator gives whis to Children of which the Voter is one their Heirs, his Freehold Mepuage &c in Mey at a place called Crawley in Occupation of Geo: Smith.

It appeared in Evidence that the Leasehold premises in the possession of Thomas peace, Same Hopkins, Birt & Garlick adjoin together.

And that the Freehold House & lies at the distance of halfa Inile from the Leasehold promises, & is of the Tent of 44. per annum.

I should apprehend the Gentlemen by whom the Question was negatived, must Consider the description on the Poll Book, "Thomas Pearce and others as extending only to the Persons, who with him are mentioned in the Will to be the Tenants of the Leasehold; and the rather so as these Premises lie together: Whereas the Treehold in Smiths Dofseysion lies a Considerable distance there-from.

If not I can't see upon what principle they proceeded. For it was certainly understood, that the Party's could not avail themselves of the want of a Qualification, to which they had not Objected.

Moved,

THAT, THE OBJECTION TO THE VOTE OF NATHANIEL LONG BEING THAT HE HAD NO FREEHOLD—THAT HE HAD GIVEN IN HIS ESTATE AT THE ELECTION AS IN THE OCCUPATION OF PEIRCE AND OTHERS, AND THAT HE HAD A FREEHOLD, IN COMMON WITH THREE OTHERS, OF THE VALUE OF FORTYFOUR SHILLINGS PER ANNUM, IN THE OCCUPATION OF SMITH—AND AS NO OBJECTION WAS TAKEN AS TO THE VALUE, IT IS THE OPINION OF THE COMMITTEE THAT HE HAD A RIGHT TO VOTE AT THE ELECTION FOR THE COUNTY OF GLOCESTER.

Ayes 5.

Mr. Finch, Mr. Powys,
Mr. Halliday, Sir Cecil Wray.
Mr. Penruddock,

Noes 8.

Sir. Geo. Robinson, Mr. Owen,
Mr. Cleveland, Mr. Morant,
Sir W. Cunynghame, Mr. Johnstone,
Mr. Phelips, Mr. Elwes.

N.B. The reasons given by the gentlemen who voted for the question were, that, want of value not being an objection taken to this vote, the committee had no right to hear evidence concerning it—that

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the objections were in the nature of 'counts' at common law, and that no other point could be gone into.*

Rev. Dr. STONE. A rejected vote.

Mr. Berkeley's counsel had made no objection to the want of tender of his vote—Mr. Chester's counsel, presuming on the concession in the case of "Buckingham," were not prepared to prove it—however, that was insisted on. This surprized the committee a good deal; they had been ready to come to a resolution in the former case (which was put off by the previous question, on the objection being given up', and it appeared that the counsel for the sitting member had often given up this point. It was therefore

Refolved unanimously,

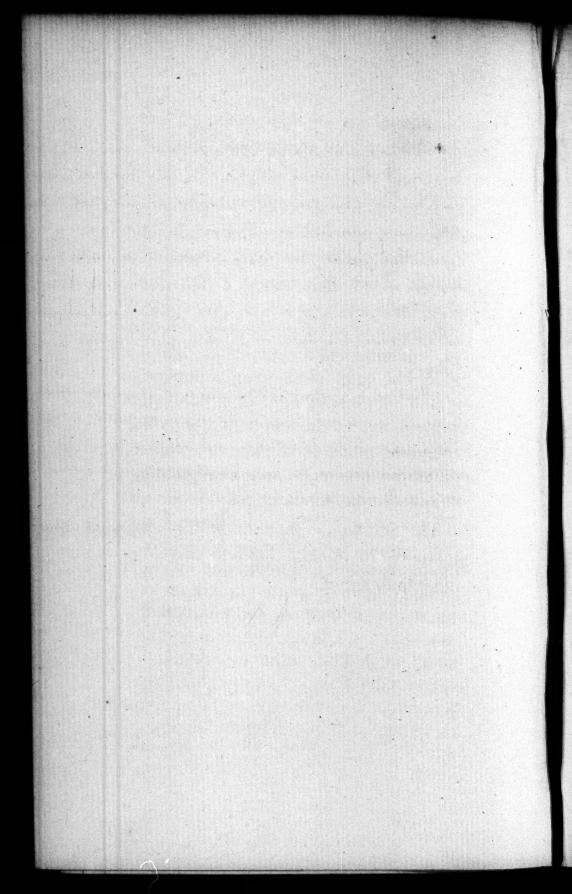
THAT, NO OBJECTION HAVING BEEN GIVEN
IN BY MR. BERKELEY TO THE WANT OF
TENDER OF DR. STONE'S VOTE FOR MR.
CHESTER, NOTWITHSTANDING THAT CIRCUMSTANCE APPEARS STATED AS AN OBJECTION TO MANY OTHER VOTES, THE
COUNSEL FOR THE SITTING MEMBER BE
AT LIBERTY TO PRODUCE EVIDENCE TO
SUBSTANTIATE THE VOTE AS TO THE
OTHER

* It is a Kule that the Pl! who complains and sues for redrep, shall not on the Trial be permitted to take up a new Cause of Complaint which has not been set forth in the Instrument by which he first made his application to the Court, This Rule is Just being Calculated to prevent a Surprize on the Deft, who, if he had not previous Notice of every Charge meant to be brought against him, might lose his Cause for want of an Opportunity to prepare his Defence.

Therefore in yo Case of Petersfield, the Committee would not permit the Councel to argue the point of the ineligibility of It Al: Hume as High showith of Hertfordshive because the same ineligibility was not an Allegation in the Petition.

AB. The Words High Sheriff for the Country of Hertford' appeared in the Petition; not as a Complaint but as descriptio personal.

Dong: C. E. Vol. 3. 1 7. 8.



OTHER OBJECTIONS, WITHOUT BEING PUT TO THE PROOF OF THE TENDER.

Dr. Stone was vicar of Hereford—there are twelve vicars, with the custos, who aggregately enjoy an estate of 1031. a year. The custos divides the rents as they come in, drawing a double share for himself; the rest draw an equal share each.

The petitioner's counsel objected to this vote. It was argued, that individuals composing an aggregate body, and enjoying, as such, an undivided estate, though the annual rents to each are above forty shillings, have no right to vote individually.

That a voter must have a freehold in himself, or corporate in himself, (as vicar,) or such an annuity out of the land as he himself can sue for. Tenants in common, and joint tenants, can vote, because each has a right to destroy, at any time, the joint tenancy—a corporation cannot do so; no one of it can say, "This is my land." Tenants in common of tithes can do the same—"Cestui qui trust" can at any time compel possession.

It was answered, if they have such a right as gives them forty shillings a year, it

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gives them a right to vote—Joint tenants had not a right to compel a severance of the freehold until the 8th of Henry VIII. yet they certainly had a right to vote before that period—The vicars have a permanent interest in their freehold, not to be removed but for bad behaviour—How does this case differ from that of a schoolmaster?

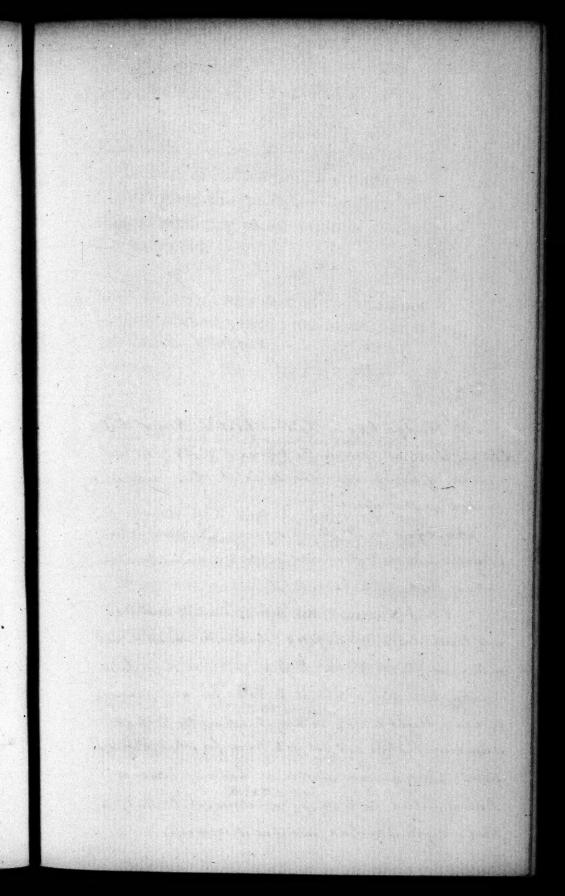
It was replied, that, if this vote was allowed, great inconveniences must ensue—every member of the university, nay, every liveryman of the city of London, might have an individual vote for knights of the shire.

Refolved, nem. con.

THAT DR. STONE, BEING PART OF A CORPORATE BODY, COMPOSED OF A CUSTOS
AND ELEVEN VICARS OF HEREFORD, HAD
NOT A RIGHT TO VOTE AT THE LAST
ELECTION FOR THE COUNTY OF GLOCESTER, FOR HIS PART OF THE ESTATE
VESTED IN THE SAID CORPORATION.

DAVID BROWN. Objection, no free-hold.

The register of his marriage in December, 1776, was produced. A witness offered



Mr. Rudge had in Fact no Estate in Newent, but had an Estate at Corse in the position of Watts, which instead of being described to be at Corse was described as at Newent".

An Agent of M. Chesters gave in Svidence a Conversation with the voter in which the Voter said he never had any property in Nevent.

A long X exam! took place in which the Witness was particularly interrogated whether he was not employed on the part of Mr. Chester to go to the Voter to get Information from him as to what he Voted for, and to know if he had a Right to Vote To these questions the Witness answered that he did not go to know for what N. Audge Voted, but to discover whether he had any Estate at added that He Newent, and the Witness, apprehended N. Audge to have a right if he had described it properly.

to prove that he had heard the wife say, in the presence of her husband, that they were married before that period.—Objection was taken to admitting parole evidence to contradict a record.

Moved,

THAT WHAT THE WIFE SAID, IN THE PRESENCE OF HER HUSBAND, ABOUT HER MARRIAGE, IS ADMISSIBLE EVIDENCE.

Ayes 12. No 1, Sir Cecil Wray.

58th Day.
House & Land at "Newest" in possion of Watts.
THOMAS RUDGE., Objection, no freehold.

A witness said, that he knew no such freeholder or tenant, as described in the poll-book, in the whole parish.

The petitioner's counsel said, they would prove that the estate was set down in the poll-book, by mistake, in a wrong parish.

This was objected to, as it was contended that the poll-book was a record not to be contradicted by parole evidence.

The petitioner's counsel proposed to put the following question to the witness, viz. "At one of thesetimes when the votes
"came to the poll-booth, did be not
the Votes " insist upon it that he had voted for an

" estate at "Coss," and that "Newent"

" was put down by mistake?"

Observing, that the poll-book was not of that nature as not to be altered by the proof of a fact—Records of courts baron are often amended in courts of law—The act of parliament for poll-booths and books is only directory, not obligatory.

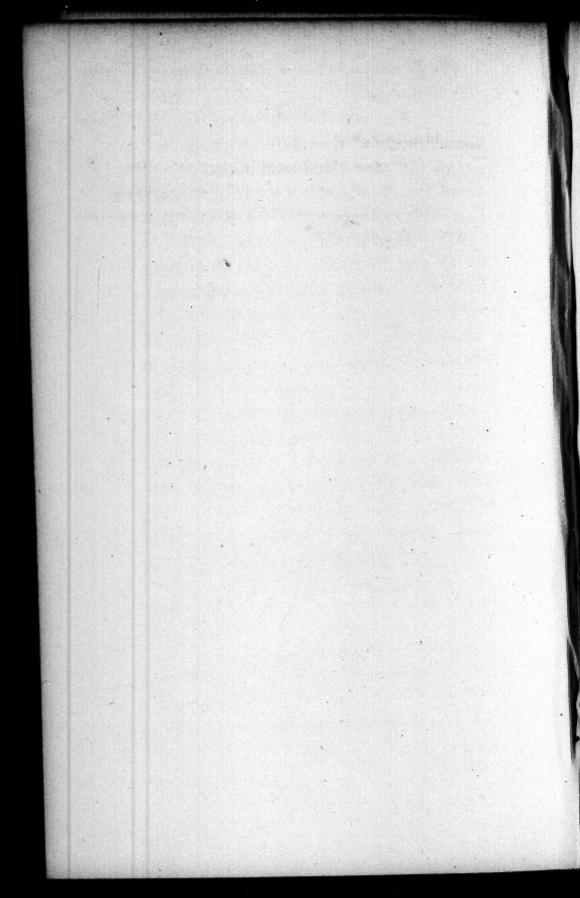
It was answered, the description in the poll-book is the only point clear to the objector, otherwise it would be impossible for him to prove an objection; the voter need only give in a wrong description, and the evidence against him will be nothing to the purpose—A man cannot give evidence in his own favour—if evidence is offered explanatory of a fact, (as to prove a hamlet in such a parish, &c.) it may be taken—That the act was certainly obligatory, on which the justice of the whole of a county election depended.

It was replied, when a witness reports a conversation, he must only repeat the words, without

The Petition or's Councel put the following Question to the Witness.

How often was it that you went to Me Rudge on the subject of his Note?

Once in particular I was determined to ask him the Question. I went three or four Times. They then proposed to put the following Question to the Witness (Vigt) *



without faying any thing of the right—in the present case, there could be no deceit on Mr. Chester, as his own witness knew that the voter had a freehold. If the voter, though he gave his suffrage for lands in Coss, yet had them described as in Newent, brought his action against the poll-clerk, he would recover.

Moved,

THAT THE QUESTION BE PUT TO THE WITNESS.

Ayes 10.

Noes 3. Mr. Finch,' Mr. Phelips, Sir Cecil Wray.

Resolved, nem. con.

THAT THE COUNSEL BE NOT AT LIBERTY
TO ADDUCE EVIDENCE TO CONTRADICT
THE DESCRIPTIONS OR ENTRIES IN THE
POLL-BOOK.

Refolved, nem. con.

THAT THE COUNSEL BE AT LIBERTY TO ADDUCE EVIDENCE TO EXPLAIN THE DESCRIPTIONS OR ENTRIES IN THE POLLBOOK.

Moved,

Moved,

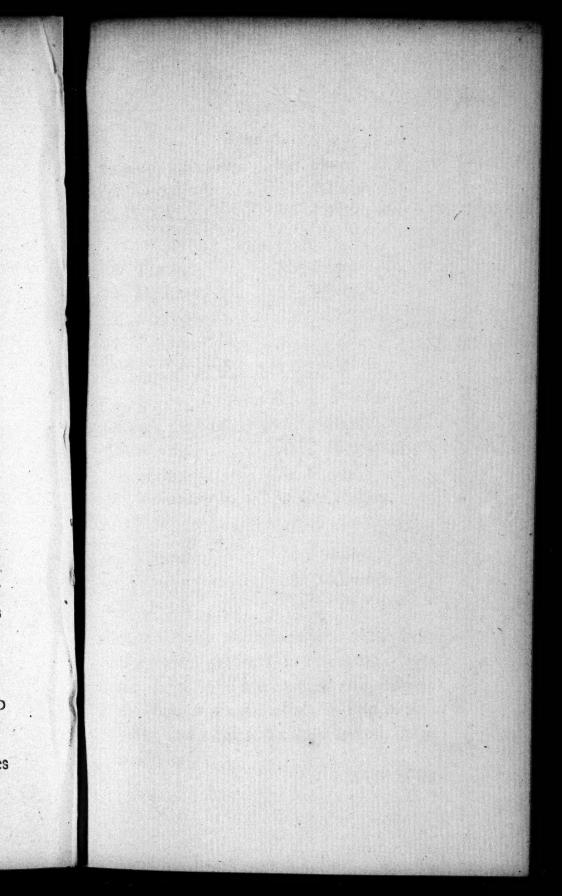
THAT IT IS THE OPINION OF THE COMMITTEE, THAT IT IS NECESSARY FOR EVERY FREEHOLDER AT THE ELECTION, WHEN HE POLLS, TO GIVE IN THE NAME OF THE PARISH, HAMLET, TOWNSHIP, TITHING, OR PLACE, IN WHICH HIS FREEHOLD IS SITUATE.

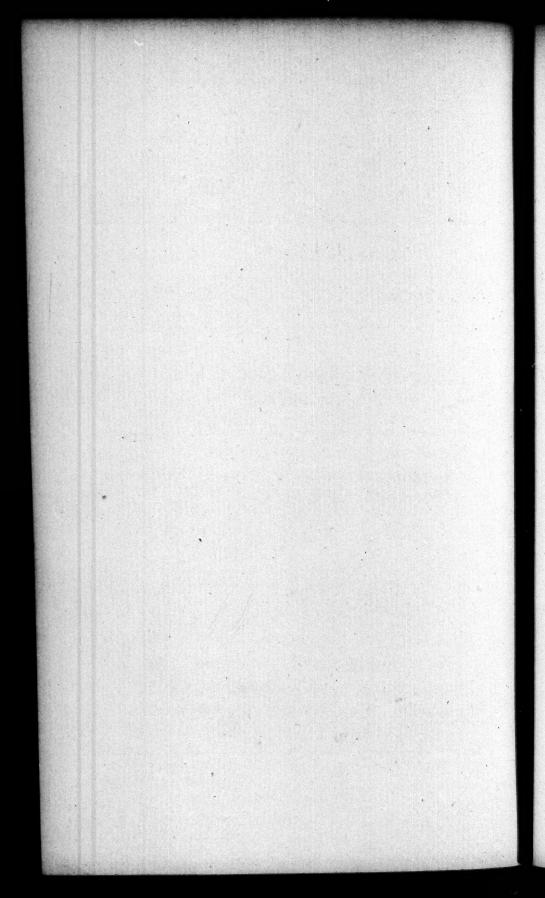
Mr. Johnstone moved, that the word "hundred" should be inserted in the question before "parish;" explaining his meaning, that this would be a sufficient description of the situation of his freehold.

The chairman, Mr. Powys, Mr. Penrud-dock, and others, on the contrary, argued the next to impossibility to find out, in large hundreds, any particular freehold, without a general survey of the whole; particular hundreds being sometimes 30 or 40 miles long.

Moved,

THAT THE WORD "HUNDRED" BE INSERTED IN THE QUESTION BEFORE "PARISH."





Ayes 6.

Sir Geo. Robinson, Mr. Owen,
Mr. Cleveland, Mr. Morant,
Sir W. Cunynghame, Mr. Johnstone.

Noes 7.

Mr. Finch, Mr. Powys,
Mr. Halliday, Mr. Elwes,

Mr. Penruddock, Sir Cecil Wray.

Mr. Phelips,

The question was then put.

Ayes 8.

Sir Geo. Robinson, Mr. Phelips,
Mr. Finch, Mr. Powys,
Mr. Halliday, Mr. Elwes,
Mr. Penruddock, Sir Cecil Wray.

Noes 5.

Mr. Cleveland, Mr. Morant, Sir W. Cunynghame, Mr. Johnstone. Mr. Owen.

N.B. To shew the uncertainty of the duty of a returning-officer, in a particular cause one judge gave his opinion that he was a judge, a second that he was a minister, and a third that he was both judge and minister.

THOMAS

THOMAS RICE. Objection, no free-hold.

Mr. Probin (a friend to Mr. Berkeley) had been told, at a confultation of Mr. Berkeley's counsel and agents, that he need not bring up any deeds in his possession. The reason they alleged to the committee for giving this advice to Probin was, that a hand-bill had been circulated amongst Mr. Chester's friends in the county of Glocester, to defire them not to fhew their deeds to Mr. Berkeley's agents, alleging, that, under colour of giving notices, they procured the knowledge of their title. The counfel exclaimed much against this hand-bill, and produced one of them to the committee. Some gentlemen of the committee thought it a strange proceeding to endeavour to stifle evidence. The chairman, on the contrary, faid, if it had been his own case, he should have given the same notice.-Mr. Johnstone asked Probin, "Should the cause " have been so near run as to have depended " on the production of the leafes, could you " have answered it to yourfelf for not having "done it?" Mr. Probin said, "Certainly " not"-

The writer of this Note having had a principal Concern in the Conduct of the whole of the Brusiness on the part of the Sitting Inember, and being now under examination asto a Declaration of Rices, that He Voted for a Leasehold held under M. Probyn, the Petitioners Councel took this opportunity of examining him Concerning the Hand Bill altuded to in the Text, and for that purpose put the following Question Vigt.

"as Agent to IN. Chester) distribute hand Bills informing "M. Chesters Water's that they were not under any obligation to "produce their Deeds"?

Question objected to, as the Answer (supposing the dispersing the Hand bills to be a twoong measure) might tend to Criminate the Witness.

Objection allowed .

The question was then put in these words Vizt "Did you know that Handbills were distributed"
This Question was objected to on the same principle &.
The Objection allowed.

At last it was put in the following Words Vizt. "Whether you know of any Handbills being distributed on the part of Mr. Chester importing that the Voters who had "Deeds should not produce them".

To this last Question it was agreed the Witness must give an answer, which he did, by admitting that Hand Bills to that Expect had been distributed. At the same time, he requested to be allowed to give the Reason for dispersing them, which was thought he ought to be permitted to do.

He then proceeded to observe, that M. Berkeley's Agents under Colour of the notices to the sitting member's Voters to produce their Title before the Committee, did themselves obtain, or endeavour at it, a Sight of the Voters Title Deeds. Therefore to undeceive the Voters in this respect by making them sensible that they were not Obliged to Discover their Titles to In Berkeley's Agents, was a Yeason for dispersing the Hand - tills complained of

AB. One of these Hand Bills was afterwards product the hown to IN. Whiteombe (the Agent) who achinocoledge the Superscription to be of his Hand Writing. It was then handed to the Councel, I by them to the Committee.

The Connect for Int Chester, far from thinking the Agents Conduct blameable in this respect, avowed to the Committee, that He himself if he had been Consulted upon the Occasion, would have recommended the Measury, nor did the Committee say anything in reprehension of what the Witness had done.

"not"—but at the same time did not offer to produce the leases. Mr. Lee desired to know the sentiments of the committee—The chairman told him the committee had always recommended, but never compelled, the production of deeds.

The next day the counsel promised to produce them. The chairman's opinion was uniformly, that the committee was trying the cause in issue betwixt Mr. Chester and Mr. Berkeley, and that each should make the best of his cause: Mr. Johnstone's opinion was as constantly, that they were trying the cause of the public, and that therefore it was every person's duty to produce any evidence in his power which might tend to do justice.

60th Day.

THOMAS BRAWN. Objection, not rated to the land-tax.

A deed was offered in evidence from "Cavardine," mortgagee of the voter's eftate. This was objected to as evidence, as the mortgagee might have more deeds in

his possession, which he had not produced.

Moved,
THAT THE DEED BE READ IN EVIDENCE.

Ayes 9.

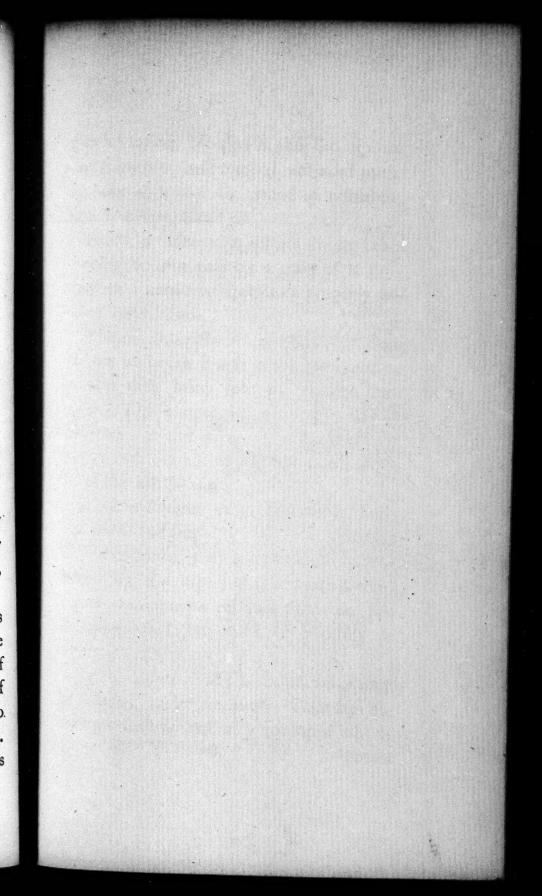
Noes 4.

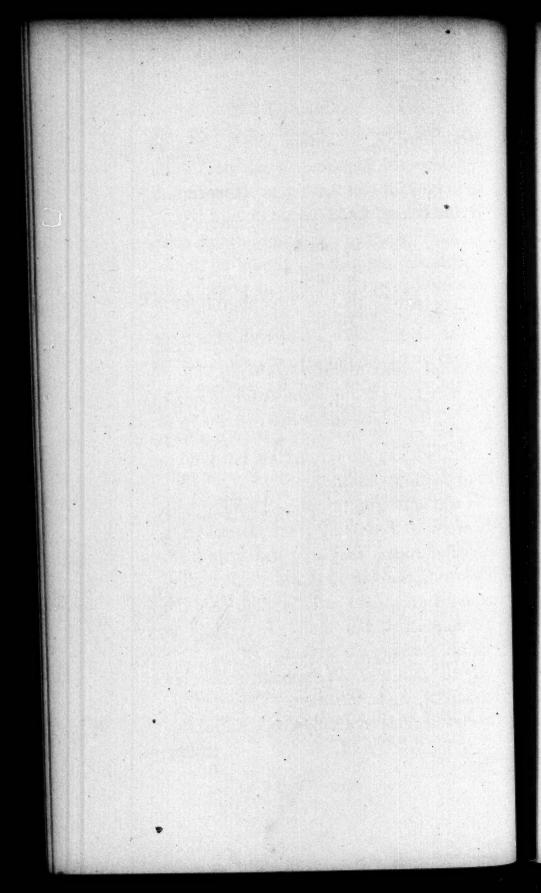
Mr. Finch, Mr. Owen, Mr. Morant, Sir Cecil Wray.

The question, whether tithes let to the separate parishioners by the rector or vicar ought to be rated to the land tax?

The fitting member's counsel argued, that they were not included in the act of the 18th of George II. In the present case (viz. RICE JONES, rector of Harescombe) they are let to the parishioners—they are virtually rated; for if the tenants pay more in taxes, they pay less in rent.

A doubt in law having arisen if parsons had a right to vote, an act passed in the 12th of Anne to give it to the owners of tithes, chambers, places, &c.—the 18th of George II. recites the clause, and repeals so much of it as disables persons to vote, &c.





goes on faying, No person possessed of lands and tenements shall vote, if not rated to the land-tax—but not to extend to chambers, seats in courts, &c.

Lands or tenements do not denote tithes—tithes do not pass by a grant of lands—they are a particular species of property arrising out of lands.

The object of the act of 18th of George II. was to be an index to the votes, and to prevent their being split for election purposes. This cannot be wanting in respect to tithes, as the vicar or parson is always known. They are very seldom rated, when let to the inhabitants.

It was answered, tithes are within both the words and meaning of the aforesaid acts. In one of them, they are particularly mentioned—in the other, they are called tenements—In common parlance tithes are not so denominated, but must of necessity in construing acts of parliament.

By the statute of Westminster, tithes may be intailed, under tenements—Coke says tenements include not only corporeal inheri-

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tances,

tances, but those arising out of the same, and may be intailed.

Blackstone gives many instances of what comes under the title "tenements," though incorporeal inheritances as tithes are — in point of law they are therefore tenements.

Suppose each person in the parish rents his own tithes, yet the parson may be rated. Viner expressly says, "the person who lets the tithes to the parishioners, is the occupier, and may be rated."

Tithes are a tenement in which a person may have a freehold. By the act of Henry II. the right of voting is confined to persons possessed of lands and tenements—Owners of tithes vote, and therefore included under one of these terms.

It was replied, that neither Blackstone nor Coke mention tithes as tenements. They formerly were held not even to be here-ditaments. When they became lay property, it was necessary to give the possessors a legal remedy similar to that of their other estates. The remedy prior to this æra was in the ecclesiastical courts.

S r S e

The Property described on the Poll was an Annuity or Reserved A ent ifsuing out of a Treehold House into The Objection given in by the Petitioner why this man should not be added to the Poll was "that he did not "tender for the Sitting Inember, had no Treehold ing!" "premes or not of 40. a year, or not in possession 12 "months, or not assessed," But there was no Objection to the Annuity's not being Registered.

There is not a word in the 12th of Anne of tithes, chambers, feats in courts, &c. nor had parsons a right to vote, until the convocation, in which they were represented, had lost its power, and they were taxed by the parliament.

Moved.

THAT RICE JONES, RECTOR OF HARESCOMBE, WHO LETS HIS TITHES, OF
ABOVE THE VALUE OF FORTY SHILLINGS A YEAR, TO HIS PARISHIONERS,
BUT IS NOT PARTICULARLY RATED
FOR THE SAME TO THE LAND-TAX,
HAD A RIGHT TO VOTE AT THE
LAST ELECTION FOR THE COUNTY OF
GLOCESTER.

Ayes 11.

Noes 2.

Mr. Owen, Mr. Cleveland,

62d Day.

JOHN CLEVELAND. A rejected vote. *

Evidence was offered to prove that the L 2 voter

voter had purchased an annuity of sixteen pounds a year, out of premises at Cirencester.

It was argued by the petitioner's counsel, that they ought also to prove that the annuity was registered, as the right would not else be complete.

It was answered, that no objection having been taken to the want of registration, no evidence need be produced on that head:

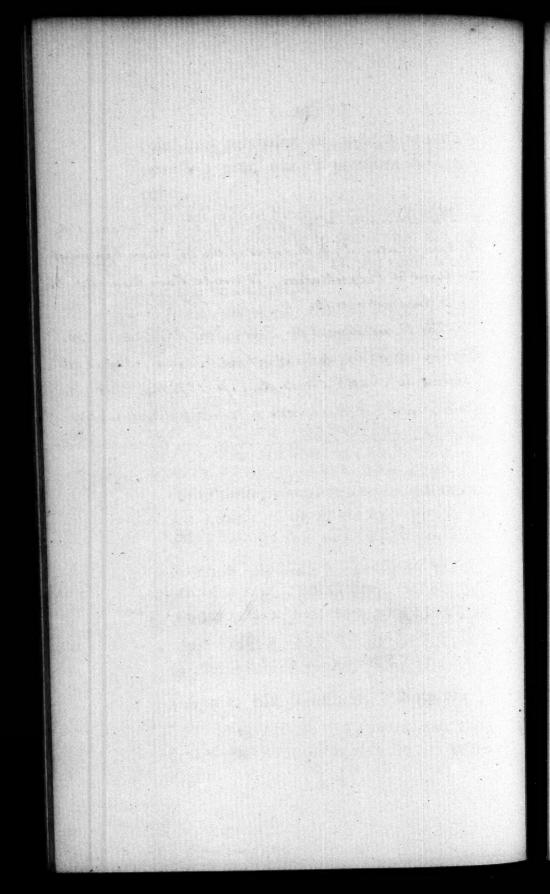
Moved,

THAT, IN ORDER TO ESTABLISH THE VOTE OF JOHN CLEVELAND, THE DESCRIPTION OF WHOSE FREEHOLD BEING AN ANNUITY OR RESERVED RENT, IT WILL BE NECESSARY FOR THE SITTING MEMBER TO PROVE THAT THE ANNUITY FOR WHICH HE VOTED WAS REGISTERED, THOUGH NO OBJECTION WAS TAKEN IN THE LIST OF OBJECTIONS TO THE WANT OF IT.

Aye 1, Mr. Johnstone. Noes 12.

The Annuity originated by Grant as Appeared by the Deed produced; & therefore if the Objection had went to a want of Registration, it would have been impossible to have got overit.

The Resolution of the Committee therefore in this Case as well as in Several others, Shews what is observed in Nath! Long's Case fo: 133. wint that the Parties were not permitted to avail themselves of the want of a Qualification for which they had not objected.



WILLOUGHBY HYLEY. A rejected vote.

A witness said that the voter tendered his vote to the under-sheriff for Mr. Chester, but does not recollect who asked him the question.

Mr. Watkins fwore that every man was asked the question, viz. "for whom he tendered his vote?"

Moved,

THAT IT DOES NOT APPEAR TO THE COM-MITTEE, THAT WILLIAM HYLEY DID TEN-DER HIS VOTE FOR MR. CHESTER.

Ayes 12. No 1, Sir Cecil Wray.

JOHN BARREL. A rejected vote.

Proof was offered that the voter was possessed of tithes to the value of 40 shillings a year, which were not under a necessity to be rated. This was objected to by Mr. Morgan, but no reasons given.

Moved,

THAT THE COUNSEL BE PERMITTED TO PROVE,
THAT THE REVEREND JOHN BARREL, AS
L 3
VICAR

VICAR OF RUARDINE, IS POSSESSED OF TITHES TO THE ANNUAL VALUE OF FORTY SHIL-LINGS.

Ayes 12. No i, Mr. Cleveland.

The clerk of the parish gathered the tithe-money, and paid it to the voter. A question was proposed to the witness:

"When you paid the money to the vicar, did you fay you paid it as tithes?"

This question was objected to, as not the best manner of proving the voter's freehold. The way should have been to have produced the endowments.

It was answered, that the payment of tithes to the vicar was a good proof of his right to them. Rectors are intitled by common law to their tithes, and the endowments are sufficient proof; but the right of a vicar must be either by grant or prescription.

Moved,
THAT THE QUESTION BE PUT TO THE WITNESS.

S

W3. The Witness say'd he laid the Bet about the middle of the Election, The Terms of it were that IN. Chester would succeed. But the Witness said he looked upon it that though Mr. Chester was returned by the shorty he should lose his Wager if Mr. Berkeley should succeed in his Petition.

spice whose and Ayes 9.0 saling another

Mr. Penruddock, Mr. Halliday,
Mr. Elwes, Mr. Phelips,
Mr. Johnstone, Mr. Cleveland,
Sir W. Cunynghame, Sir Cecil Wray.
Sir Geo. Robinson,

Noes 4.

Mr. Finch, Mr. Morant, Mr. Powys, Mr. Owen.

THOMAS HALL. A rejected vote.

A witness of the name of William Moss was produced.

Mr. Morgan, counsel for the petitioner, asked him, if he had not a wager depending on the success of the election? He said he had, of sive guineas. Mr. Morgan then objected to him, as not competent to give evidence.

Serjeant Grose, on the contrary, said, that in the courts of law this was no objection—that it had often been there decided, that a witness shall not do any act to deprive the parties of his testimony.

Mr. Morgan rested on the impropriety of L 4 a per-

a person's giving evidence in a cause where he may be a gainer by the determination.

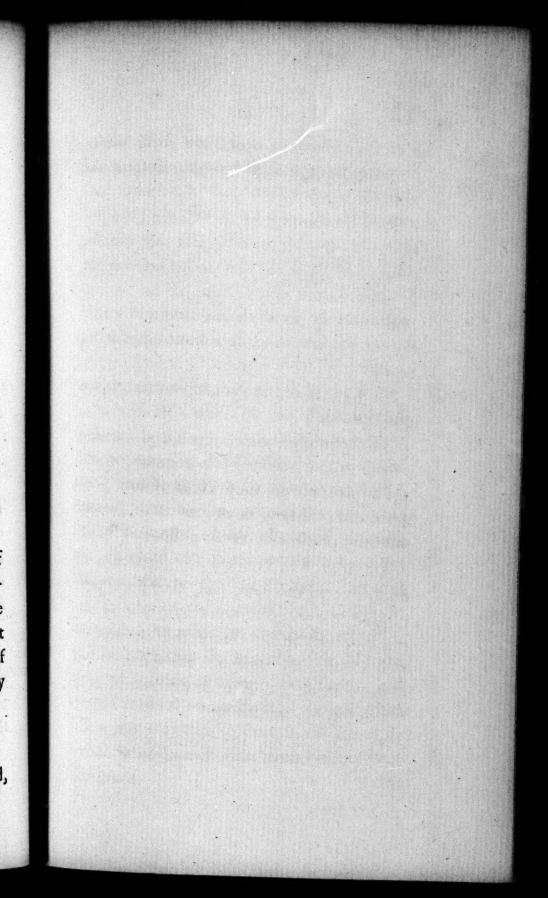
Mess. Bearcrost, Lee, and Cooper, the petitioner's counsel, were not at that time in court. Mr. Lee at that period coming in, Serjeant Grose asked him, if he would maintain that an evidence, having a wager depending, was not competent to give testimony?

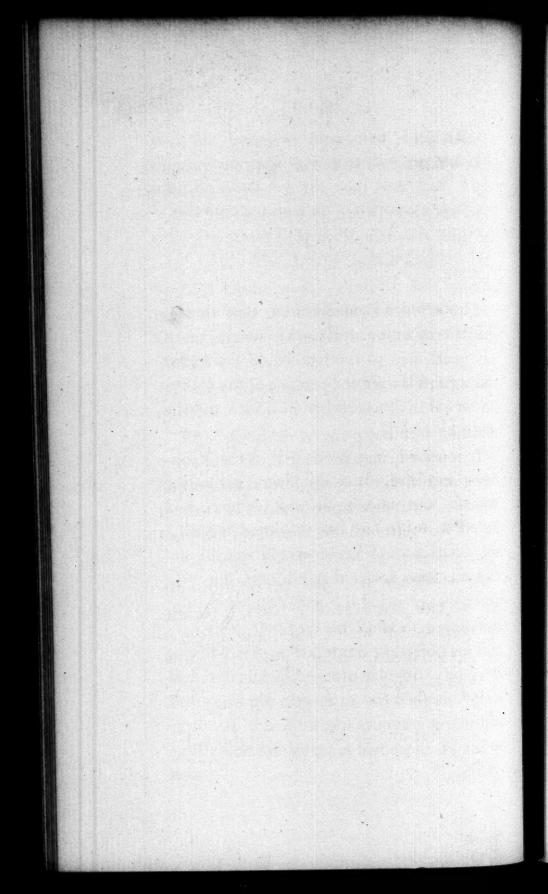
Mr. Lee refused to give any answer to the question.

The committee were a good deal puzzled—finding Mr. Berkeley's counsel would not argue the case, they asked if any gentleman of the law, as amicus curiæ, would state the practice of Westminster-hall?

On this, Mr. Graham, a gentleman of eminence in the law, faid, that he apprehended "it was a decided case, that, if the "wager was made before the election, it "would entirely invalidate the testimony of "the witness, but, if made afterwards, only "went to his credibility."

On this opinion, the committee





Refolved, nem. con.

THAT WILLIAM MOSS, HAVING LAID A WAGER AT THE ELECTION, THAT MR. CHESTER SUCCEEDED, WHICH HE HAS DECLARED DEPENDS ON THE DETERMINATION OF THE COMMITTEE, IS NOT A COMPETENT WITNESS.

Mr. Morgan then declared, that though the determination was in his favour, yet if any gentleman of the law would fay that it was against law or the practice of the courts, he would still wave his objection to the witness.

It appeared, that, in the trial on the Taunton committee, BOB BRIANT, not only a witness, but also a principal agent, had betted a wager of one hundred pounds, that Shatford and Webb would not be fitting members under that election, his evidence was objected to, and decided by the committee to affect his credibility only.

This objection was taken by Mr. Morgan at a very fingular time—Mr. Chester had almost finished his case—Mr. Berkeley had still many witnesses to examine in his reply—but what seemed more extraordinary was,

that the gentlemen of the law were much divided in their opinions, whether the refolution was, or was not, confistent with the law of evidence.

On the following day Mr. Bearcroft began his reply. He complained much of the resolution in Moss's case, that it was against law—that he was undoubtedly a competent evidence—and therefore begged that it might be rescinded.

might be rescinded.

This the chairman protested against. He said, "he had thought it wrong at the "time—he had given his opinion against "it, but it was the opinion of a gentleman "not conversant in the practice of the "courts—that he had over and over desired "the counsel not to mislead the committee "—that he did not think it consistent with "their dignity to be blown backwards and "forwards by every breath of the lawyers; "to make an order one day at the suggestion "of one party, and when, on the next day, "the same party sound that order inconve-"nient to themselves, by their desire to re-

" fcind it—Neither did he think they could do fo—they might make another order

" contrary

the exacts there are the common to the The same which the same of I shake now when he had around again for Larrie programme or notice also pleasure CAMPAGE TO THE RESERVE OF THE PARTY OF THE P derestation to the last terminate the field . I compared the form the party of the state of the s The Billion Black of Styles on the Styles

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the and introduced by the world where the The second secon and the second second section in the second section is the second section of the second section in the second "contrary to the former, if they pleased; but the former was now become a record, and, if that practice was allowed, every determination the committee had already come to might be re-examined and alwitered, even by those who perhaps had not made them, as the committee did not consist of the same persons it once did."

Mr. Lee faid, "that he had heard that "he" had been reflected on for not pleading "to the question when he was desired to "do so by Serjeant Grose. He had, indeed, "refused to answer the questions asked by "him, but at one time had got up to plead, "when he observed the chairman wave his "hand to him to sit down."

The chairman said he was surprised at the affertion. He appealed to the gentlemen near him, how desirous he had been to have heard Mr. Lee on that question, and observed, that, "if Mr. Lee did sit down on his waving his hand to him so to do, it "was the first time in the cause that the "waving his hand had such an effect, as "not only his hand, but his voice, had been "very

" very often employed to keep order with" out a possibility of doing it."

Mr. Johnstone spoke for erasing the determination, shewing that other courts, during their sittings, frequently did so—quartersessions, for instance, and the king's bench, &c. &c.

Many gentlemen in the committee gave their opinions, that, if injustice was done, it ought at least to be on both parties, as Mr. Chester had lost the benefit of some of his evidences by it.

No question was moved on it, and Mr. Bearcroft was directed to proceed.—He called Joseph Betts as a witness. Betts had a wager depending on the success of the election, which (on the preceding day) another person had taken off his hands.

This wager being made after the election, gave some colour of right to his being admitted as an evidence, though his case was so difficult to be distinguished from that of "Moss," that Mr. Graham owned he could not see any reason for admitting the one and restraining the other, and therefore defired "that it might be understood, that, "from

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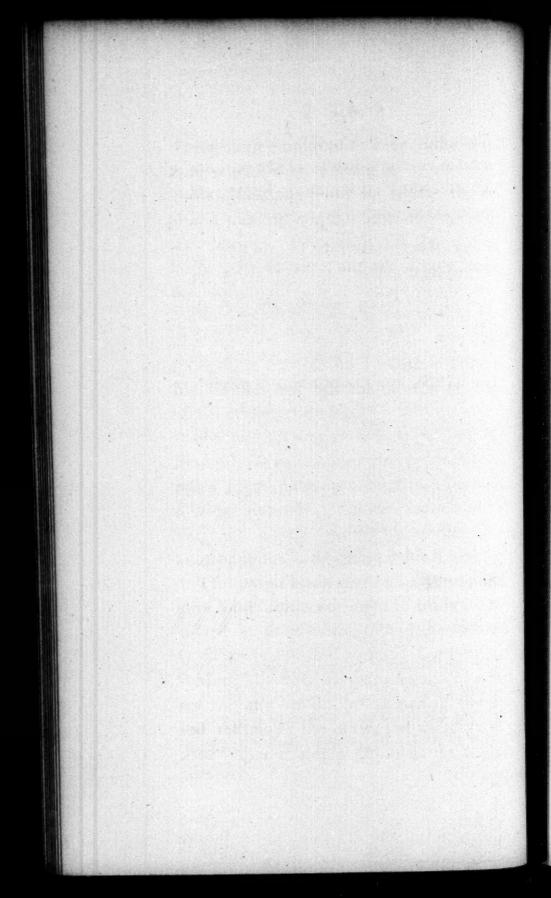
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"from the difficulty of determining at what point the interest of the party to a witness would commence, he retracted the opinion he had before given."

It was then moved,

THAT JOSEPH BETTS, HAVING SINCE THE ELECTION LAID A WAGER ON THE SUCCESS OF THE PETITIONER, WHICH HE YESTERDAY GOT A PERSON TO TAKE OFF HIS HANDS, IS A COMPETENT WITNESS.

Ayes 6.

Mr. Cleveland, Mr. Morant,
Sir W. Cunynghame, Mr. Halliday,
Mr. Owen, Mr. Johnstone.

Noes 7.

Sir Geo. Robinson, Mr. Penruddock, Mr. Finch, Mr. Elwes, Mr. Phelips, Sir Cecil Wray. Mr. Powys,

The petitioner's counsel then desired this vote might be postponed, as the last resolution of the committee had put them under a necessity of getting other evidence.

Moved,

Moved,
THAT THE VOTE UNDER CONSIDERATION
BE POSTPONED.

Ayes 7.

Mr. Cleveland, Mr. Owen,
Mr. Halliday, Mr. Johnstone,
Sir W. Cunynghame, Sir Cecil Wray.
Mr. Morant,

Noes 6.

Sir Geo. Robinson, Mr. Powys,
Mr. Finch, Mr. Elwes,
Mr. Phelips, Mr. Penruddock.

Mr. Powys, to do justice to Mr. Chester, who had lost votes by the same resolutions, Moved.

THAT TIME BE GIVEN TO THE SITTING MEMBER TO PRODUCE FRESH EVIDENCE AS TO THE VOTES OF THOMAS HALL AND FRANCIS HENRY.

Ayes 9.

Sir W. Cunynghame, Mr. Morant,
Mr. Powys, Mr. Cleveland,
Mr. Johnstone, Mr. Halliday,
Mr. Phelips, Sir Cecil Wray.
Mr. Owen,

Noes

N

ster, ons,

CING ENCE IALL

Noes

It is true that the a Witness is examined an Hour together at Law. if in any part of his Evidence it appears that he was a party interested the Court will direct the Sury that he is no Witness, nor any regard to be had to his Evidence. IN Wright 16. 2 Vern. 464. 11424 Michas 1704. Needham or Smith - See also Equ: Ab. 224 pl 4. J. G. V J. ...

Exops examining a Witness by one side in a matter tending to the Merits makes him a good witness for the otherside, the otherwise liable to an Exception, Wern: 254 pl. 226. Mich, 1684. Cospor, of Sutton Colfield v Wilson _ See also Viner Tit-Evidence p 32 - pl: (1)

Noes 4.

Sir Geo. Robinson, Mr. Penruddock, Mr. Finch, Mr. Elwes.

On the following day another witness was produced, who had also laid a wager, but had procured a person, sour months before, to take it off his hands. It did not appear that the person with whom he had betted, an evidence for Mr. Chester, had consented to this transfer. The petitioner's counsel said, that the whole of that witness's evidence, with whom he had betted, should be erased, as he was not competent.

It was answered, that, if a witness was admitted, examined, and cross-examined, and no objection made at the time, his testimony was complete.

It now appeared that the petitioner meant to give up his cause: he had no competent evidences to produce, and he did not chuse to make them so, though a small sum would have paid their bets, they being from one guinea to sive each.

As in this case much obloquy might be thrown on the committee, Mr. Johnstone moved moved to clear the court: he shewed the very disagreeable predicament the committee would stand in, if the cause went off on this account—that, if possible, some means should be hit on to get rid of the resolution in "Moss's" case.

Many things were thought on, as the whole committee feemed perfectly convinced of the propriety of Mr. Johnstone's arguments. It was evident to them that the fitting member would have a decided majority; and, as he might, without any danger of his cause, give up that point, it was proposed that Mr. Elwes should talk with him about it. The case was extremely delicate—they could not confent that Mr. Elwes should give the least hint to Mr. Chefter of the goodness of his case; and the death or illness of a member might put an end to the committee before the election was decided, and confequently subject Mr. Chester to a new trial. - Mr. Elwes did talk with Mr. Chester, who defired time to confult his friends; and the committee adjourned for that purpose.

Mr. Graham gave a paper to Mr. Johnstone, t

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* The Aute of Law seems to be this, that a party interested will be admitted where he acquires the Interest by his own Act after the party who calls him as a witness, has a Right to his Evidence.

And therefore the one who lays a wager at the time of the Original Wager. is no Witness (Shin 586) yet one who lays a wager afterwards ought to be admitted, the schaps a Person who laid a Wager at the same time will be admitted, in Case he has reced the money witht, any Condition to Teturn it, for the Inoney will be intended to be duly paid, 3 Lev: 132, See also Bulleis & N. prius 285.

stone, in which a case was stated of "Jones," chief justice. "The wager was owned to be lost, and paid before trial—Q. If the witness was competent?

Jones held him competent, and that his credibility only was affected.

Three puisné judges held the contrary, and that the practice of the courts was not to admit such witnesses.

If the wager was an objection, the payment of it could not alter the case—Holt—Jones—and the practice of the courts make the witness competent, but affect his credibility.

Holt says, "No man can make himself "an incompetent witness, as the party has "a right to his testimony."*

As the cause arises at the nomination of the candidates, as much as at any other period, it can make no difference at what time the wager is made. 'Tis evident, therefore, from the authorities above cited, from the rule of the courts, and from justice, that the competence of the witness is not affected."

M

On the following day Mr. Chefter 'very candidly offered to wave taking any objections to future witnesses on the score of wagers, except as to one "Riddle's" evidence, which he submitted to the court.

Mr. Bearcroft said, the offer was not fufficient; that the committee should expunge the resolution on Betts intirely. The counsel on both sides, however, withdrew, and agreed that no objection should be taken in suture on the subject of wagers—that the evidence already given by Betts and Riddle should remain good; but that they are in suture to be considered as included in the determination against the competency of those who had laid wagers.

The whole of this question is brought together, to avoid confusion; it will now be necessary to revert to the 62d day, when

WILLIAM MARTIN, a rejected vote, was attempted to be put on the fitting member's poll.

The poll-clerk had not entered his name with the "jurat." The check-clerk was produced

But for this agreement all the Evidence given by these people in Cases where they were not X examined by the adverse party, ought to be expunged, under the Resolutions of the Committee touching the incompetency of Witnesses who had wagers depending.

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The Objection to Hinton was no Freehold and not having been 12 Inouths in possession .

The Case upon the Evidence appeared to be this. One. law. Poright, whose Consin German the Voter had many? made the Voter a present of the Premies Voted for in the year 1774. And by Deeds dated 29th 30 May 1776. (some days after the Blection) the Consideration of which is express to be natural Love & affection to the Voice, Conveyed the same to the Voter in Hee: It appeared that the Voter had been in possession from 1774. I laid out money Upon the premes; I that Bright had had no Benefit therefrom.

produced as an evidence to prove that he had been fworn.

This was objected to, as a person proved in this manner to have been sworn would not have been found guilty of perjury in Westminster-Hall.

This was denied on the other fide, and argued that the neglect of the poll-clerk should be cured by other evidence.

Resolved, nem. con.

THAT EVIDENCE BE PERMITTED TO PROVE
THAT WILLIAM MARTIN WAS SWORN AT
THE ELECTION TO HIS FREEHOLD, HIS
NAME WITH THE JURAT NOT APPEARING IN THE POLL-BOOK, WHICH WILL
BE SUFFICIENT TO PUT THE PETITIONER
UNDER THE ONUS OF DISPROVING THE
FREEHOLD AND VALUE THEREOF.

63d Day.

The petitioner began his reply by attempting to substantiate JOHN HINTON.

A witness fold him a freehold, and put him in possession, in 1774, but had not executed any conveyance till 1776.

M 2 Resolved,

Resolved, nem. con.

THAT JOHN HINTON HAD NOT A RIGHT TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

To substantiate RICHARD RI-CHARDS; to whom the objection had been, not rated to the land-tax.

A person was offered as an evidence to explain the rate, who was neither assertion for nor collector.—This was objected to, as not the best evidence.—It was answered, that any explanation of a fact is good evidence.

Moved,

THAT THE EVIDENCE OF JOHN HART, IN EXPLANATION OF THE RATE, WHERE IT APPEARS THAT THEOPHILUS RICHARDS IS RATED, AND THAT RICHARD RICHARDS COMMONLY GOES BY THE NAME OF THEOPHILUS, BE ADMITTED.

Ayes 10. Noes 3.

Mr. Finch,

Mr. Halliday,

Mr. Penruddock.

The name on the Rate was Theophilas Richards" The Hather of the Woter.

Premises were not Afselved, one George Hart was produced to prove that Richa Richards the Voter went by the hame of young Theophilas Richards & that He was known by that name more than by any other, The Witness admitted that the Voters Halber was alive, I that his Name was Theophilas, On being asked concerning the Estate, the Witness said he did not know whether it was the Tather's or the Sons. But that having some thoughts of purchasing the Estate he applied to the Son on that Occasion who declined Selling it.

No. As the Objection went only against the Kating, the Question whether the Estate was the Father's or the Son's could not of Course be gone into.

The Objection to Noble was "want of Balue". It came out in Evidence, that He and two others were intitled to certain Houses in It Philip & Jacob, altogether of more than Lb. a year, but that the Voter had described on the Poll a Inepsuage & Lands in Popsefsion of John Kingon, which were only & 4. a year. and Consequently the Voter's third thereof Considerably under 40.

Isaac Carpenter's Case, which in the Text is rather inaccurately Stated, was as follows, His Hather Rich? Carpenter by a Deed dated 24. June 1764. Between himself of the 1. part, Mary Seperis of the 2. part, I In? Beddom of the 3. part, (after reciting that He s. A. Carpenter was seized in Hee of the Premises for which the Voter polled, I that a marr? was intended between him & S. Mary Seperis) did demise the same to the Trustee for 99 years, In Trust for said Rich? Carpenter for so long of the Term as he should Live, Rem. In Trust for s. Mary Texteris his intended wife for her Life. This Deed was produced & proved by the Sitting Inember in Support of his Objection to

To substantiate JOHN NOBLE, against whom the evidence had been, that he had only one third part of four pounds a year, by Farr's will—but it appearing that the estate left by "Farr' was six pounds a year, but that the voter had at the election given in the name of "John Kingdom" only, and had not given in the name of the other tenant,

Resolved, nem. con.

THAT JOHN NOBLE, WHO WAS INTITLED TO ONE THIRD PART OF A FREEHOLD ESTATE BY THE WILL OF MRS. FARR, OF THE ANNUAL VALUE OF SIX POUNDS, WHEREOF THE TENEMENT IN THE OCCUPATION OF JOHN KINGDOM, OF THE ANNUAL VALUE OF FOUR POUNDS, IS A PART, AND HAVING GIVEN IN THE NAME OF JOHN KINGDOM AS HIS TENANT—AS FAR AS NOW APPEARS, WAS NOT INTITLED TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

To substantiate ISAAC CARPENTER.

The evidence had been against him, that

M 3 the

the premises were settled on his mother-inlaw for 99 years—a deed was produced, and objected to, as it created a term for 99 years, if Mary Jeffrys shall so long live.

Objection was taken, that this deed creates a term; but it was answered, that Richard Carpenter, who created the term, having afterwards conveyed the freehold interest to the voter, the term merges in the freehold.

Resolved, nem. con.

THAT ISAAC CARPENTER HAD A RIGHT TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

The counsel for the petitioner demanded of the committee, if they were at liberty to produce fresh evidence in the course of the reply, to support the objections against Mr. Chester's votes; observing, that sacts appeared in the course of Mr. Chester's answer, which might be invalidated by it.

The sitting member's counsel answered, that, at this rate, the cause could never be concluded; they too had fresh evidence to produce Isaac Carpenters Vote; The Lattier & the mother in Law of the Voter being both living

The Petitioner to Substantiate the Vote produced & proved a Deed dated 20th Dect 1774. between said Rich? Carpenter of the one part & the Voter of the other part, where by so Brichard Carpenter Conveyed the so primes to his Son the Voter.

The only Question therefore was, lokether by Richard Carpenter's Conveyance to the Voter (the loife being living) such an Interest passed to him as intitled him to Voter not withstanding the Settlement on the Wife? It is clear from the Lesolution of the Committee, that they thought such an Interest did pass to the Voter. But it is Submitted they did not determine this Upon an Idea that the Form of 99 years merged in the Freehold upon the Conveyance to the Voter. This Term was neither in Prich? Carpenter, nor the Voter, For the Prichard was Cestai que Toust of it for so many years as he should live, The Term itself continued in the Trustee The Trusts thereof not being executed by the Stat of Mses, but Remaining as at Common Law Poph. 76-

The principle upon which the Committee determined the Case was probably this . Trig !

That as Michard Carpenter on his Jecond Inarriage did not depart with the Freehold but only created a Term in the premises: And as he was, when he Conveyed to his son, Seized of that Treehold Valso Cestui que Trust of the Term, his Conveyance must page such an Interest as during his own Life, intitled his Son to Vote.

A Property of the Control of the Con we share the tree south Mills Cont Misting process demand the second secon A STORY CO. THE PERSON OF THE See A see Long to the second section of the second sections. THE PERSON OF TH both care where was a considerable and the AND HER CONTROL OF THE LEFT TO SERVICE STATE produce to answer some of the petitioner's, and so on ad infinitum.

Moved,

THAT THE PETITIONER BE ALLOWED TO PRODUCE FRESH EVIDENCE TO PROVE THAT RICHARD TIPPET WAS NOT ASSESSED TO THE LAND-TAX, HE BEING NOW IN THE COURSE OF THE REPLY.

Aye 1, Sir W. Cunynghame. Noes 12.

To substantiate NATHANIEL TAUN-TON.

The voter had married the daughter of Elizabeth Scanfeild—it had been proved by an evidence that the mother had "declared" fhe received the rents of the estate for the use of her daughter.

The counsel proposed to call Elizabeth Scanseild, to prove that she made no such declaration.

Mr. Phelips opposed this, thinking it was producing fresh evidence in the reply.—It was allowed, that, in the case of a witness forswearing himself, evidence might be adduced M 4.

duced to prove that fact—and this feemed of that nature.

Moved,

THAT THE PETITIONER BE ALLOWED TO PRODUCE ELIZABETH SCANFEILD, TO CONTRADICT THE EVIDENCE GIVEN IN THE COURSE OF THE SITTING MEMBER'S CASE, "THAT "SHE HAD RECEIVED THE RENT FOR HER "DAUGHTER'S USE,"—HE BEING NOW IN THE COURSE OF THE REPLY.

Ayes 2.
Sir W. Cunynghame, Sir Cecil Wray,
Noes 11.

The chairman, by order of the committee, explained to the counsel, that their resolution that no fresh evidence should be produced against the voters was general—against the admission of Elizabeth Scanseild, was peculiar to her only.

66th Day.

The petitioner's counsel offered to produce evidence to prove, that, in the case of "John West," one of Mr. Chester's voters,

 one of the petitioner's evidences had been perjured.

Resolved, nem. con.

THAT THE PETITIONER BE NOT AL-LOWED TO PRODUCE EVIDENCE TO PROVE THAT ONE OF HIS OWN EVI-DENCES WAS PERJURED IN THE COURSE OF THE TRIAL.

To substantiate SAMUEL THOMAS, a differting minister.

The deed of trust was produced, which was made in 1720. It contained a grant to trustees of 15 l. a year out of land, for the use of Thomas Tyler, the minister of the congregation; and, after his death, to pay the said annuity to the pastor of the chapel, so long as it was tolerated—when no longer so, then to the minister of some other chapel.

The fitting member's counsel observed,

Dissenting ministers stand on very different grounds—some are removeable at the will of the congregation—others have not been a year in possession—others, again, differ from both. There might be cases where a minister

minister might have a freehold, as if a deed was executed from a congregation, appointing one for his life.—This is not the case at present—the deed gives it to Tyler, so long as he remains pastor; then to the pastor of the chapel, so long as it is tolerated; then to any other pastor the trustees please—but not one word of the time or the title of the minister—those things were left to the law.

Before the act of toleration, they could have no right, as they were acting in defiance of the penal laws—the meetings at that time were perfectly voluntary—the congregation subscribed or withdrew their subscription at pleasure.

The act of toleration has left them exactly in the same predicament, except as to the penal statutes, and some parochial exemptions. The preamble says, "it is for "uniting the dissenters in affection."—It directs the doors to be open—exempts the ministers from parish or ward offices; but no provision how they are to come into their office—how long remain in it, or any regulation concerning them—they are therefore left to the law.

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Whilst the ministers were intirely under voluntary subscriptions, the withholding the subscription did virtually disposses the minister. At present, so large a part of their stipend is collected by the same means, that the effect is the same. The object of the donations (which are in general small) is so make their situation more easy, not to make them independent. In the latter case, the charity would be a nuisance to the congregation, by fixing on them a pastor, irremoveable, though never so bad or disagreeable.

Should it be argued, that the freehold continues only "quam diu se bene gesserint," there are many situations where the process of removing them would be extremely difficult, if not impossible.

Philosophical meetings may choose a teacher—the Robin-Hood society a chairman—supposing an estate lest to either of them, would this prevent the respective societies from choosing another teacher or chairman, or would it gain them a freehold?

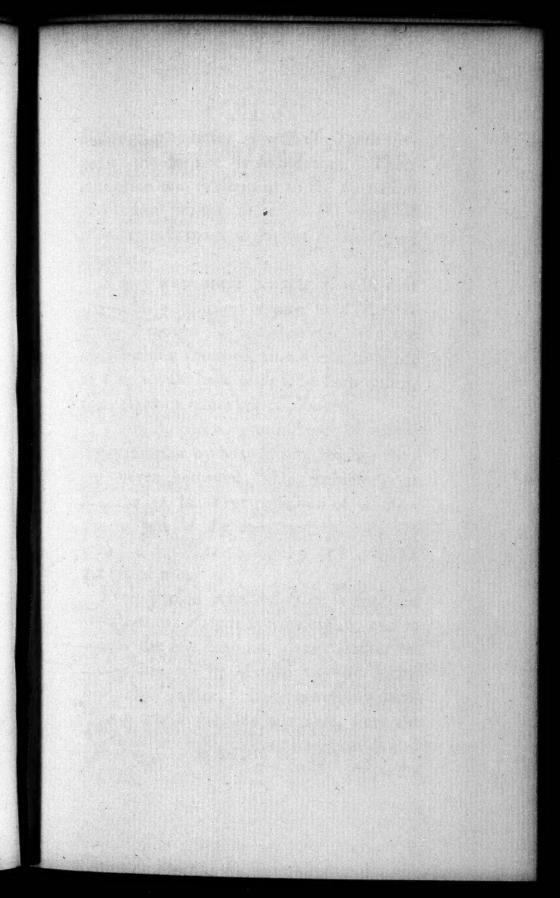
The petitioner's counsel, in answer.

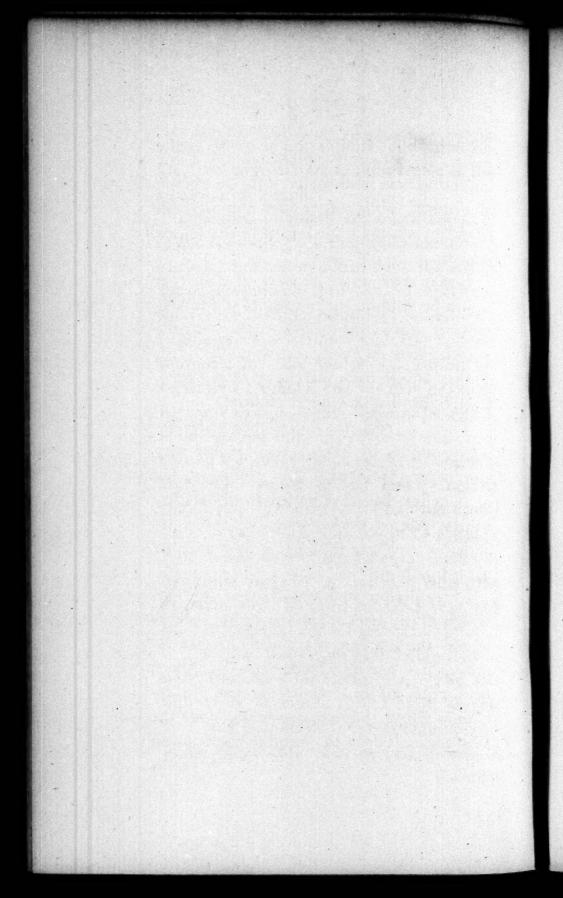
The argument has been stated, that, where

where there is not a direct foundation for life, the ministers are as removeable as the chairman of a club.

Diffenting ministers are taken notice of in the law-they are frequently mentioned as fuch, and diflinguished from the rest of the congregation in their clerical capacitytheir office has been confidered as analogous to that of the established minister, and removeable for like causes. A parson has certainly a freehold, and yet may be oufted for many things - a minister may be ousted, if he does not fulfil the office he was called to, and the congregation might choose another, who would be put into immediate possession; but does it follow that causelessly or capriciously he might be ejected? The donations are not always fmall-in Yorkshire there is an instance where the donation is one hundred pounds a year, and the congregation contributes ten.

The law would not give such power as now contended for to any one. The ministers are as much affished by it, in getting possession of their benefices, as the regular clergy are. The process, indeed, is different





different—the latter by writ of Quare impedit-the former by Mandamus. Their institution was subsequent to the formation of original writs; therefore the writ of Mandamus is made analagous to the Quare impedit.

If they were mere tenants at will, that would be a fufficient return to a Mandamus-if moved for misbehaviour, and the misbehaviour returned, that would be tried, as they would have waved, by fuch return, their right of removing at pleasure.

There is, perhaps, no instance of restoring a minister by Mandamus, because they are never removed. Dr. Robinson, at Manchester, has kept possession of his chapel, in spite of the congregation, who are under a necessity to build a new one, to get rid of him.

Every person removed from a function which draws after it specific rights, and to whom the law has not given another remedy, has one by Mandamus-By Manffield, chief-justice, " there are many fitua-"tions where they are grantable, fince the " toleration ought to extend to an endowed

" parson

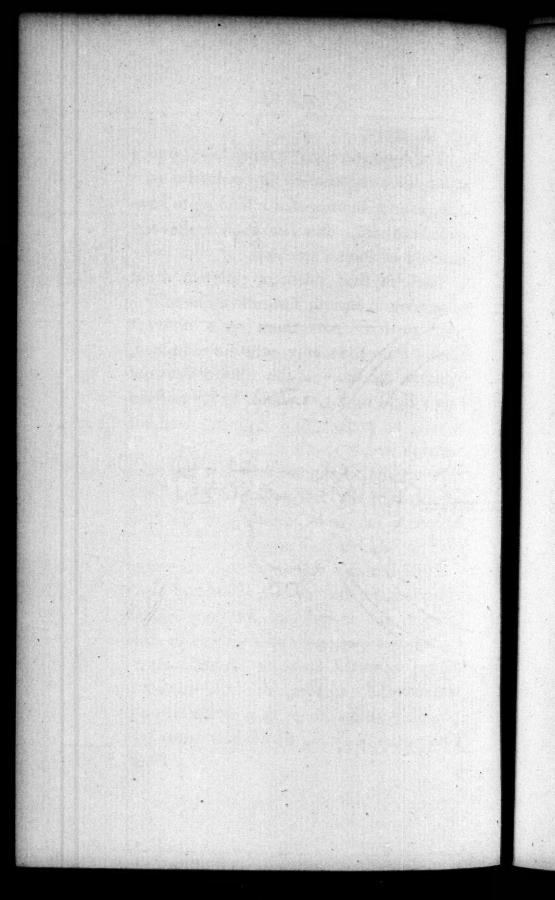
" parson of Protestant differences, by ana" logy and the reason of the thing."

The endowment must be in the nature of a deed of trust; it could not be granted to the minister. The right to the function draws after it the functions, in the same manner as the insignia draw after them the office of mayor. Judge Forster calls it a "legal right which draws after it legal "rights." The curate of Harrowgate exists by voluntary contributions—suppose them withdrawn, still his freehold cannot be taken away.

Should a minister removed file a bill against the congregation who removed him, they must not only say, We have done so, but must shew cause why the trust should not be inforced against them.

The statute law considers the office as drawing after it beneficial functions. As to the registering the donations as annuities, the exemption in the act to the promotion to ecclesiastical preferments, by analogy, exempts the others. It is reported that differting ministers voted in the great Oxfordshire contest.

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In reply,

The legislature, not having taken notice of the dissenting ministers in the freeholder's oath, cannot be supposed intending to have included them. No law-book makes any mention of such a freehold.

The idea that differents entertain of not fubmitting to human institutions, as to spiritual matters, puts them on a different footing from the clergy, who are examined, inducted, &c. &c. If the minister does not gain a right to his freehold by his election or call, he cannot gain it by any land annexed to it.

A jurisdiction appointed by law has rules regulated by the law which appoints it—dissenters, not being creatures of the law, have no rule but their own pleasure.

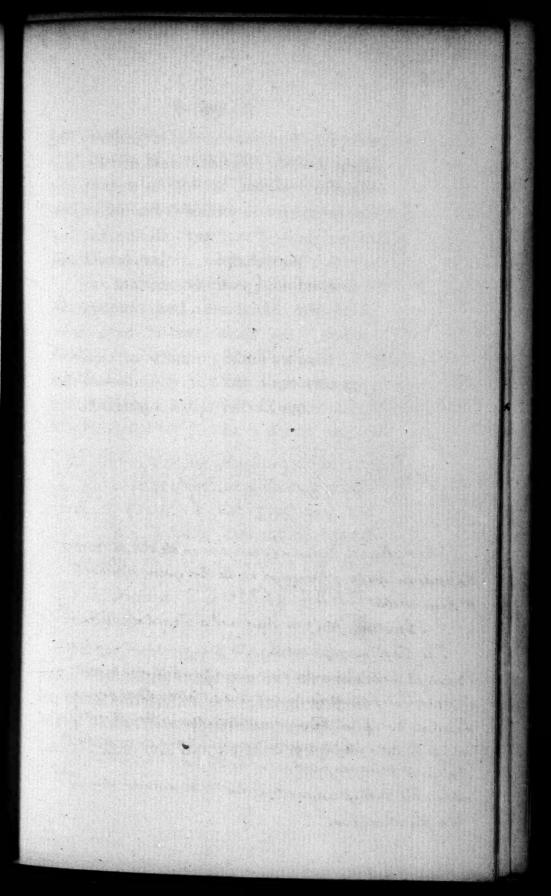
At Plymouth a meeting-house was vested in trustees, for the use of a minister. On a vacancy, the majority of the congregation elected one person; the trustees (the minority) admitted another. A Mandamus was moved for to admit the first—the court proposed to send them to a new election—both parties declining that, a Mandamus was granted.

granted. This proves that a majority had a right to elect, and therefore a majority had a right to continue, so long as they pleased only, the person so elected; and so long he had a right.—The court offering to send them to a new election, rather proves that the first did not convey an absolute one.

Had the Mandamus been brought to "restore," the answer would have been, "We have a right to remove at pleasure"—but this right was not denied—neither Manssield nor Forster call it a freehold.

Moved,

THAT SAMUEL THOMAS, ENJOYING, AS DISSENTING MINISTER OF THE CHAPEL OF FRENCH
HAY, AN ANNUITY OF FIFTEEN POUNDS A
YEAR, BY VIRTUE OF A DEED OF TRUST TO
THE SOLE USE AND BENEFIT OF THOMAS TYLER, SO LONG AS HE SHALL LIVE AND SUPPLY
THE CURE IN THE CHAPEL OF FRENCH HAY,
AND AFTER HIS DEATH, OR CEASING TO SERVE
THE CURE, THEN IN TRUST TO APPLY THE
SAID ANNUITY TOWARDS FINDING AND PROVIDING ANOTHER GOOD, LEARNED, AND
PIOUS DIVINE, OF THE PRESBYTERIAN PERSUASION, TO PREACH AND SUPPLY THE CURE



Blanchard Voted as described on the Poll for Houses & Lands in Sodbury Borough in the Polsession of himself & Jane Webb.

Objection "that he had not a Treehold therein The Fact really was that the premises in Soubury Borough were Leaschold for years, which was proved by producing the assignment to the Voter. But he had a Freehold Estate at Frampton Cotterell another parish, which he told the Witness (when he served him with a Notice to produce his Deeds) he voted for as well as the other. The Witness added that the Voter did not Say he told the Sheriff so.

h

OF FRENCH HAY, SO LONG AS THE SAID CHA-PEL SHALL BE TOLERATED,—HAD A RIGHT TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

Ayes 5.

Mr. Cleveland, Mr. Owen,
Sir W. Cunynghame, Mr. Johnstone.
Mr. Morant,

Noes 8.

Sir Geo. Robinson, Mr. Powys,

Mr. Finch, Mr. Penruddock,

Mr. Halliday, Mr. Elwes,

Mr. Phelips, Sir Cecil Wray.

N. B. This case being the strongest of any of those respecting the dissenting ministers in favour of the petitioner, the committee, in fact, determined against them all.

To substantiate THOMAS BLAN-CHARD.

The evidence against him was, that he had a chattel-lease in the premises for which he voted.—Evidence was offered that he had a freehold in a different parish and hundred from that he gave in at the poll.

N Refolved,

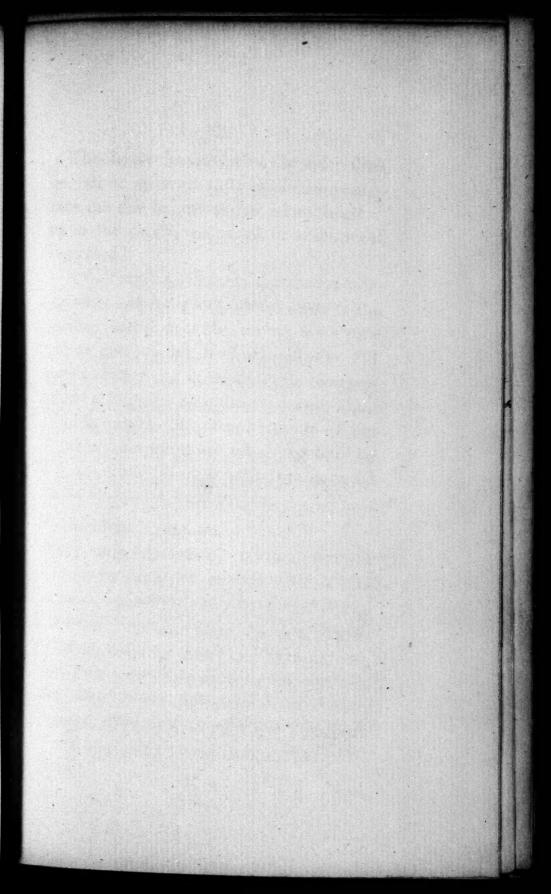
Refolved, nem. con.

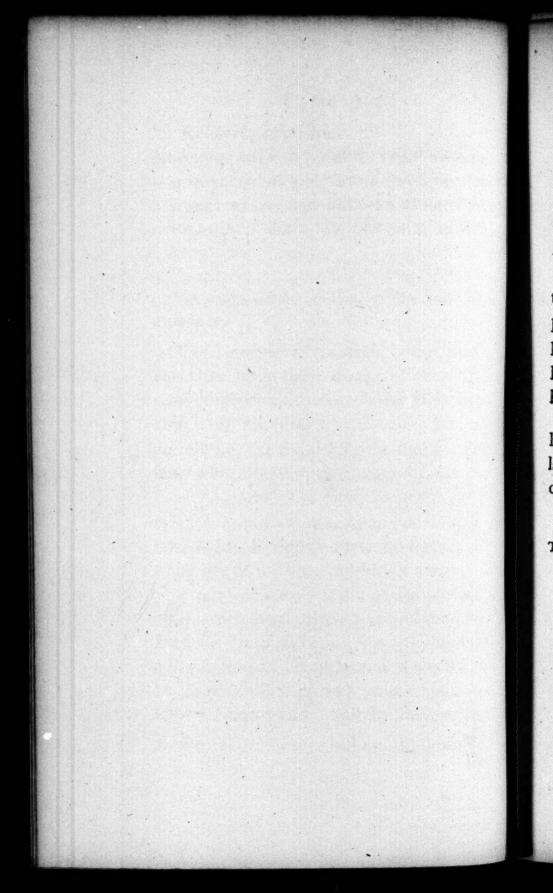
THAT EVIDENCE TO PROVE THAT THOMAS BLANCHARD HAD A FREEHOLD IN A DIF. FERENT PARISH AND HUNDRED FROM THOSE WHICH HE GAVE IN AT THE POLL, BE NOT ADMITTED.

To substantiate WILLIAM VIRGO, a pauper.

The number of paupers being nearly equal on both fides, it was of very little consequence which fide defended their franchise. In the case of the voter, he was defended by the counsel for the sitting member, who observed, that alms do not destroy the right of a freehold—that parish relief is demanded as a right, not as a favour—that, if right is given by statute, nothing less than statute can take it away.

It was answered, that a person receiving alms is not thereby legally disqualified, yet, from his situation, he is not worthy of such a franchise.—In boroughs this is a more valuable franchise still, and yet the house has always determined against such persons yoting,





The statute demands that the voter shall be able to dispend forty shillings a year how can this be, when his estate is given up to the parish, as it must be when relief is granted?

It was replied, that, in the present case, the voter had not given up his estate to the parish; neither does the law require a pauper to give up his freehold—all that the parish officers can demand is the rents and profits during the time they maintain him.

In boroughs, the determinations of the house of commons, not being regulated by law, are arbitrary—in counties, the quantum of the freehold is fixed by law.

Refolved, nem. con.

THAT WILLIAM VIRGO, HAVING, WITHIN TWELVE MONTHS BEFORE THE ELECTION, RECEIVED PART OF A SUM GIVEN BY WILL TO THE POOR OF THE PARISH OF THORNBURY WHO ARE NOT ON THE PARISH BOOKS, AND RECEIVED NO MONTHLY PAY, IS NOT THEREBY DISQUALIFIED FROM VOTING AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

N. B. The case of parochial poor receiving weekly or monthly collection was not argued.

68th Day.

To substantiate PHILIP GUY, as rated to the land-tax.

A duplicate from the clerk of the commissioners of the land-tax was tendered in evidence.—This was objected to, as not figned by the commissioners; but in that division it appeared to have been the custom for the clerk to take copies himself, and (after attesting the copy) to give them in.

Moved.

THAT THIS DUPLICATE BE ADMITTED IN EVIDENCE.

Ayes 7.

Mr. Cleveland, Mr. Owen,

Sir W. Cunynghame, Mr. Johnstone,

Mr. Powys, Sir Cecil Wray.

Mr. Morant,

Noes 6.

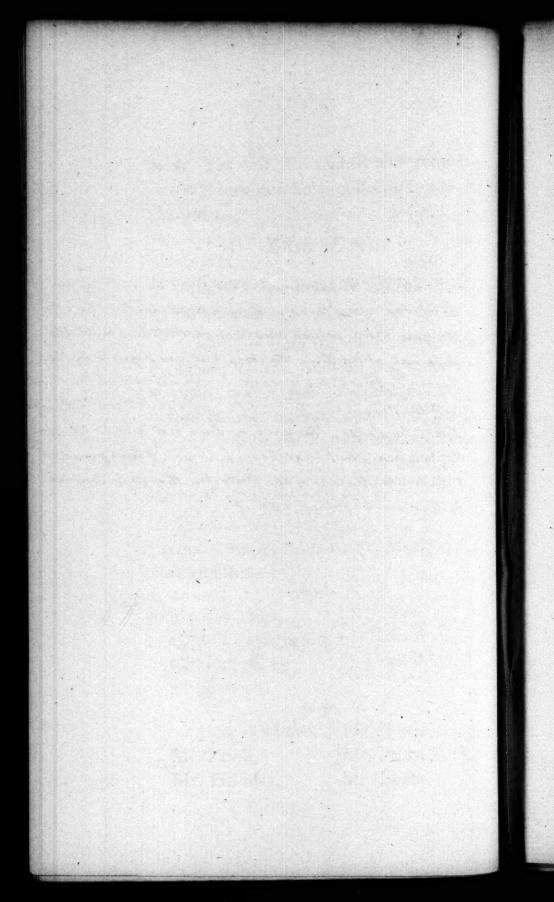
Sir Geo. Rabinson, Mr. Phelips,

Mr. Finch, Mr. Penruddock,

Mr. Halliday, Mr. Elwes.

To

A M. Middlemore Clerk to the Comme of the Land Tax Nate for the year 1763. which was brought into him with the Original at the Time the Original was signed by the Comme. This Copy he said he examined at the Time with the Original, but could not say he read it through Letter by Letter. He said he had notice to produce the Original, but that he had notice to produce the Original, but that he had it not, I imagined it to be in the Hands of the Collector, though he Confessed the had not enquired after it.



To fubstantiate WILLIAM BRIND.

The petitioner's counsel offered to produce an evidence to contradict the testimony himself had given when this case was before the committee. It was argued, that in the court of chancery, on a man's application to rectify his own evidence, it was often granted—the same, if examined on interrogatories.

It was answered, that it was done in chancery on the man's own application, but not after publication, as at present.

The witness had said in evidence, that an agreement had been entered into by himself (the heir at law) and his brothers, for the division of his father's estates according to his will; but that he did not know that, as heir at law, he could claim the whole—The question now proposed to be put to him was, "Did you think yourself bound "by the agreement, or was you deceived?"

Moved,

THAT THIS QUESTION BE PUT.

N 3

Ayes

Ayes 6.

Sir Geo. Robinson, Mr. Owen, Mr. Cleveland, Mr. Elwes,

Sir W. Cunynghame, Mr. Johnstone:

Noes 7.

Mr. Finch, Mr. Morant,

Mr. Halliday, Mr. Penruddock, Mr. Phelips, Sir Cecil Wray.

Mr. Powys,

To substantiate PAUL SYLVESTER, who had been proved to have voted for a chattel-lease.

A deed conveys to the voter a remainder of 99 years. It was argued, that this deed conveys a freehold—deeds should be construed strictly against the grantor—if a deed "grants" to "A," without any subsequent words, the law implies a grant for life.

It was answered, that, if a deed gives only a lease for years, it does not give a freehold.

Moved,

THAT PAUL SYLVESTER HAD A RIGHT TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

Aye 1, Mr. Johnstone. Noes 12.

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Tenner voted for an Estate at Maisey Hampton in Francis Bedwell's Popsession.

The Objection was " Not having a Freehold in the premises Voted for, I not having been in possession to his own Use 12 Months.

The Case was this. He in Nov! 1775 absolutely Conveyed the Premises to Francis Bedwell (who married his Daughter) without any Reservation whatsoever, taking a Bond from Bedwell Conditioned to permit the Voter to receive the Rents for his Life.

John Shurman To substantiate RICHARD SHARMAN

A deed had been produced of the premises in the time of Queen Elizabeth, for 1000 years—in 1700 one Baily granted it in see—from Baily the title was deduced.

Refolved, nem. con.
THAT ENGLISHED HAD A RIGHT,
TO VOTE AT THE LAST ELECTION FOR
THE COUNTY OF GLOCESTER.

To substantiate ROBERT JENNER

The voter had fold his estate to "Bed-well," who had permitted him to receive the rents and profits for life. It was argued, that a bond had been executed at the time of the sale, leaving the voter in possession of the premises for his life, which must be intended as a deed of trust.

It was answered, if this bond was a deed of trust, it would have been indorsed on the deed.

It was replied, the bond must be considered as part of the deed—chancery would establish the trust right.

N 4

Resolved,

Resolved, nem. con.

THAT ROBERT JENNER HAD NO RIGHT TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

69th Day.

To substantiate WILLIAM SPENCER.

The voter had married the widow of one "Robins," who left a daughter heires to the premises. A witness was produced, and a question proposed to be put to him, which was objected to, viz. "Did you hear the "daughter and sole heir declare that she "had nothing to do with the estate?"

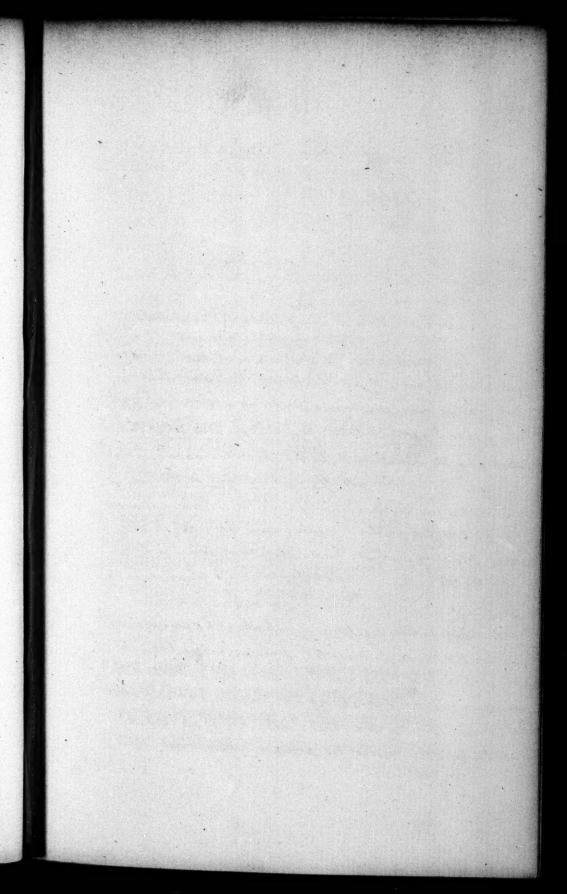
Moved, THAT THIS QUESTION BE PUT.

> Aye 1, Sir William Cunynghame. Noes 12.

To substantiate JOHN MATTHEWS.

Notice was faid to have been given to "Payne" to produce a deed. The perion who gave the notice could not produce a copy of it.

Resolved,



The Objection in the Leve Cases of Mojs & Rudge who were described on the Poll to have Noted for Istates Situated in parishes where they had none, was not having a Freehold Estate in the Premises Voted for"; and had the Objection to Becket been the same, or that he had " no such Treehold as described on the Poll", the Vote must, consistently with the Determinations of the Committee in those Cases, have been struck of, upon Shewing that He had no Estate at Horsely where he had described it to be: But here the Objection going to Rating only, this Case so far differs from those, Itill however the Question is, Whether it does not come within the same principle? I must confes I think it does, and if I did not know that the subtilty of the Human mind in making Distinctions is boundless, I should wonder how this Case and those Cited could be determined on different grounds.

Refolved, nem. con.

THAT, IN CONFORMITY TO THE FORMER DETERMINATIONS OF THE COMMITTEE, THERE IS NOT SUFFICIENT PROOF OF THE NOTICE BEING GIVEN TO PAYNE TO PRODUCE THE DEED OF MATTHEWS' ESTATE.

To substantiate JOHN RICE BECKET

—not rated to the land-tax.

The voter, at the poll, had given in his freehold as fituate in the parish of Horseley—evidence was offered that it was rated in the parish of Avening, where it was indeed situated.

This was objected to, as contrary to the former determinations of the committee, in the case of William Moss, on the 52d day; in the case of Thomas Rudge, on the 58th day; and Thomas Blanchard, on the 66th day.

Moved, B
THAT, JOHN, RICE BECKET HAVING AT THE
POLL GIVEN IN HIS ESTATE AS SITUATE
IN THE PARISH OF "HORSELEY," AND
THE OBJECTION TAKEN TO HIS VOTE
HAVING

HAVING BEEN THAT HE WAS NOT RATED TO THE LAND-TAX, THE PETITIONER BE ALLOWED TO PRODUCE EVIDENCE TO PROVE THAT HIS ESTATE IS RATED IN THE ADJOINING PARISH OF "AVENING," WHERE THE WHOLE OF HIS FREEHOLD IS SITUATED.

Ayes 7.

Mr. Johnstone, Mr. Owen, Mr. Elwes, Mr. Finch,

Mr. Cleveland, Sir W. Cunynghame.

Mr. Morant,

Noes 6.

Mr. Phelips, Mr. Penruddock, Mr. Halliday, Sir Geo. Robinson, Mr. Powys, Sir Cecil Wray.

To substantiate WILLIAM HAYNES.

The voter's elder brother had left a fon now living. The voter had built a house on the premises, for which he voted in his father's life-time. A paper, said to be a probate of the father's will, was offered in evidence. It had been agreed at the beginning of the trial, that all records and probates

THE STREET STREET bates of wills should be admitted in evidence, without proving them—The present writing had been made in 1766, and never attempted to be proved till April, 1777: this created a suspicion, as it was easier to establish it by a probate than to bring witnesses, which would probably have overthrown its authenticity.

In the terms in which it was couched, it feemed much more a grant than a will; it giving land in confideration of the love and affection he bore to the voter, and in no part of it called a last will.

It was answered, that a will giving land alone, is not under any necessity to be proved. The sole reason that this was now proved was to save expences, as otherwise the subscribing witnesses must be brought to town.

It was replied, this is not in the spirit of the agreement by which probates are allowed in evidence; which was, that, to save expences, they might be produced, otherwise it would cost an enormous sum to get the originals out of the courts.

Resolved,

Resolved, nem. con.

THAT, IN ORDER TO PROVE THE TITLE OF WILLIAM HAYNES, UNDER THE WILL OF HIS FATHER, SOME SUSPICIOUS CIRCUMSTANCES APPEARING TO THE COMMITTEE FROM THE PROBATE OFFERED, IT IS NECESSARY FOR THE PETITIONER TO PROVE TO THEM THE SAID WILL BY THE PRODUCTION OF THE ORIGINAL, AND THE TESTIMONY OF THE SUBSCRIBING WITNESSES, IF LIVING AND TO BE FOUND, OTHERWISE BY THE NEXT BEST EVIDENCE; AND THAT TIME BE GIVEN TO THE PETITIONER TO PRODUCE SUCH EVIDENCE.

70th Day.

To substantiate SOLOMON CLOSE.

Objection, not rated to the land-tax. e not having been in probabilities of 12 months before the Election. In cross-examining a witness, a question was proposed to be put to him, viz. "Did "you make a conveyance of the estate to "your son?"

This question was objected to, as the freehold was not impeached—there being no necessity to produce evidence to substantiate votes as to any thing except in what they are objected to.

Resolved,

The Evidence given in Support of the Objection was a declaration of the voter that he polled for what his Father (who was living) had about 9 years ago purchased of a Mr. Aldridge.

To Substantiate the Vote against this luidence David Close the Father was produced, who Swore, that 5 years ago, He gave the House to his Son, and that the Son paid the Land Tax.

Then the Councel on the other side proposed the Question stated in the Text, which the Committee deter--mined should not be put.

Observ. Had the Objection been that the Voter had not a Treehold in the Premises, and the proper hotice to produce the Deeds been given, I conceive the witness might have been asked Whether he ever luccuted a Conveyance to his Son, There were severally instances particularly in In? Powles's Case Vol. Ip 160.

Where Parents were examined & proved they had executed no Conveyance to their Children where Parents of Estates for weth such Child" had voted. But as the Obj." only went to rating & the not having been in possession 12 months the Treehold was not in Question, & then the Tather saying he had given it to his Son 5 years, who had been inpossession all that Time was a good ans." to the Obj." that the voter had not been in possession 12 months,"

The Case of Nicholas Crops is not quite accurately Stated. It was as follows . He about 10 or 19 years before the Election purchased some Land of In! Haviland out of an Estate of his, but the Voter was never particularly tated for it. Therefore in Support of the Objection , which was that the Premes Voted for were not assessed to the Land Jax". the Land Jax Take was produced . In order to Substantiate the vote against this Objection by showing that the Istate out of which it was purchased Continued to be tated at the same Sum as before the Separation, a Witness who had been Collector of the Land Tax for 24 of the last 25 Years, was produced . But his Evidence was objected to 4 it was contended that the Pate prior to the Separation sho? be Produced . However, upon his proving that he made strict enquiry in the Parish after such Pates, I could not find any, altho he had not enquired of the Clerk of the Comm, of the Land Tax after them , the Committee resolved as above to receive his Evidence.

No. The Evidence did not in fact avail the Peter any thing, as it appeared from his own account that the Land when Bought of Naviland was not more than 15. a Year, this now by Buildings increased to bor Ly. a Year. Consequently not being 40. a year. at the time of Separation it was not such a Pating as constituted a Right of Voting under the Resolution in Rodway's Case p 89.

Refolved, nem. con.
THAT THIS QUESTION BE NOT PUT.

To substantiate NICHOLAS CROSS, against whom the objection had been proved, that his freehold, at the separation from the larger, was not worth forty shillings a year.

A witness had made inquiry after the old rates, but, not being able to find them, parole evidence was offered of their amount.

Moved,

THAT, ON THE EVIDENCE GIVEN, THE COUNSEL BE PERMITTED TO EXAMINE JOHN HAVILAND AS TO THE RATE BEFORE THE SEPARATION OF THE ESTATE OF THE VOTER FROM A LARGER ONE, THE RATES NOT BEING PRODUCED.

Ayes 10.

Noes 3. Mr. Finch, Mr. Phelips, Mr. Elwes.

71st Day.

To substantiate JOSEPH GINGELL.

It had been proved, that his father had given his estate to trustees, for the use of his daughter,

daughter, till the voter attained the age of 22—and that the voter had declared that at the election he was not 22 years old, but that the parish register was lost.

Parole evidence was now offered to prove that the voter's father and mother had agreed to destroy their marriage settlement. The question proposed to the witness was, "What did you hear your father say to "your mother in his last illness, touching "the marriage settlement?"

Moved,

THAT THIS QUESTION BE PUT TO THE WITNESS.

Ayes 2. Noes 11.

Sir W. Cunynghame, Mr. Johnstone.

To substantiate HENRY TURNER.

John Prynt had bequeathed his estates in trust to his wife until his daughter was of age, then part of them to her own use—The voter married his widow, the daughter not yet of age.

Moved,

THAT, UNDER THE WILL OF JOHN PRYNT, HENRY TURNER, WHO MARRIED HIS WIDOW, HAD

A RIGHT

Further the Hoter married the Widowed one John Rint Print by will dated b. Jept 1769 very unskilfully drawn devised all his Freehold Leasehold & Comphold in Typon Saint Leonards Glothine & Elsfield Wordfh? To his Wife Elist. until his three Dains (who at the time of the dection weredlons iderably under age) sho? Severally and respectively attain the age of 21 years, namely, Mary, Slizabeth & Sarah, & when they or either of them should arrive at that age, then his In carring was that during their Ininority of 21 his Executive (who is the Voters Wife) sho? out of the Rents of his before mention'd Estates & profits of them & every of them, breed up Educate Support Inaintain and Cloath in as handsome manner as his estates would afford as long and as far as the Times & Jeasons the Times would afford, Ind his further In earling was that when

they or either of them should arrive at the age of 21 years, that his executive should have his Estates of whatsoever hind they were of Leasehold Freehold or Copy hold (except the two Harms in Upton It Leonards called Athins & Turkins & one Ground called Brimps Close , which he gave to his twife for her Life, & after her Decease to be equally divided between his said three Dawes) And his to ill further was, that all his Other Estates before mentioned (except before excepted) should be valued, & his executive, or his two Friends in Trust sho. pay or Cause to be paid their Co- equal dividends or parts alike for their & each of their Heirs for ever, & so likewise his other Estates as he had aforesaid given to his Wife, to be equally parted after his Wife's Death, And if his aforesaid Children should chance to die before 21. The part of the deceased to go equal to y Survivors or Survivor then alive at 21 and for the better performance of his Will he Ordaind & chose rombood & Henry Yeates his whole & Sole Special Frust to expect & demand of his Executiin the full Execution of his said will .

It was proved that Turner Voted for premes given as above to his wife by the said Will of In! Print; and that the three Children were all Living, but neither of Age.

A RIGHT TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

Ayes 6.

Mr. Johnstone, Mr. Morant, Mr. Cleveland, Mr. Owen,

Mr. Powys, Sir Geo. Robinson.

Noes 7.

Sir W. Cunynghame, Mr. Finch,

Mr. Elwes, Mr. Penruddock, Mr. Phelips, Sir Cecil Wray.

Mr. Halliday,

The petitioner having no more witnesses ready, though not 12 o'clock, his counsel desired to adjourn till the next day. The committee received this application with much indignation. The cause had lasted near twelve weeks—to be then stopped for want of evidence was very disagreeable. The chairman shewed that at least the fault was not in him—that he had never neglected to sign summonses for witnesses whenever they were brought to him—that this was always at an inconvenient hour—seldom before eleven at night, frequently at one or two in the

the morning, at which hour he had often 50 or 60 brought to him.

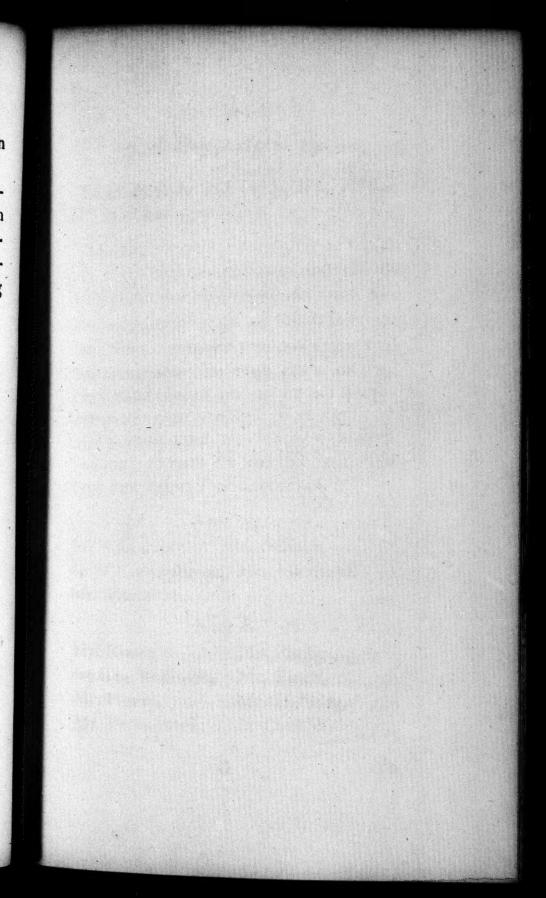
Mr. Johnstone declared, that he had always been of opinion, that the order in which the parties made out their case signified little, so as the committee were always supplied with business to keep going on—he therefore

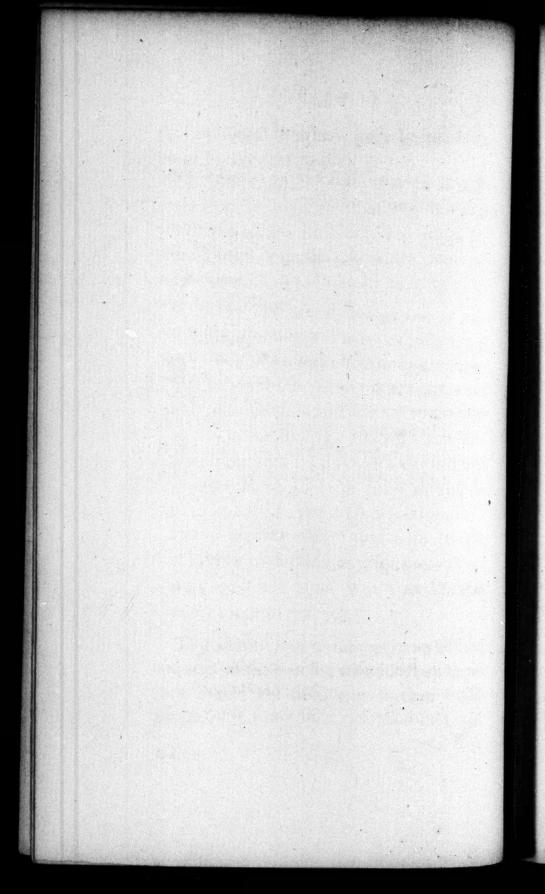
Moved,

THAT, THE PETITIONER'S COUNSEL HAVING ACQUAINTED THE COMMITTEE, THAT THEY HAD NO MORE WITNESSES READY TO PROCEED IN THEIR CAUSE, BUT PRAYING FOR FURTHER TIME TILL TO-MORROW MORNING, THE COMMITTEE DO INDULGE THEM IN THIS INSTANCE, UNDER THE EXPRESS RESOLUTION, THAT, IN CASE THEY SHALL BE AGAIN WANTING IN EVIDENCE, THE COMMITTEE WILL CONSIDER SUCH WANT AS CLOSING THE EXAMINATION.

This motion was unanimously agreed to, and read to the counsel, who said they hoped they should not need any further indulgence.

72d Day.





72d Day, April 29.

To substantiate NATHANIEL PHIL-LIPS, a diffenting minister.

Moved,

THAT NATHANIEL PHILLIPS, AS MINISTER OF THE CONGREGATION OF TEWKESBURY, BEING IN POSSESSION OF AN HOUSE LEFT BY THE WILL OF MARY WORKMAN TO THE MINISTER FOR THE TIME BEING OF THE CONGREGATION OF DISSENTERS IN TEWKESBURY, THE RENT THEREOF TO BE TAKEN BY THEM FROM TIME TO TIME, HAD THEREBY A RIGHT TO VOTE AT THE LAST ELECTION FOR THE COUNTY OF GLOCESTER.

Ayes 5.

Mr. Cleveland, Mr. Owen, Sir W. Cunynghame, Mr. Johnstone. Mr. Morant,

Noes 8.

Mr. Elwes, Mr. Phelips,
Sir Geo. Robinson, Mr. Finch,
Mr. Powys, Mr. Halliday,
Mr. Penruddock, Sir Cecil Wray.

To substantiate the votes of five persons of the name of HOLDER.

An original will had been deposited in Doctors Commons, but not proved there—it was attempted to be produced as evidence, but objected to, as not properly authenticated.

To this it was answered, this will has been five years in the commons—an office copy of it would (by the agreement of the parties) have been evidence.

It was replied, there cannot be an office copy of what is not properly authenticated in the office.

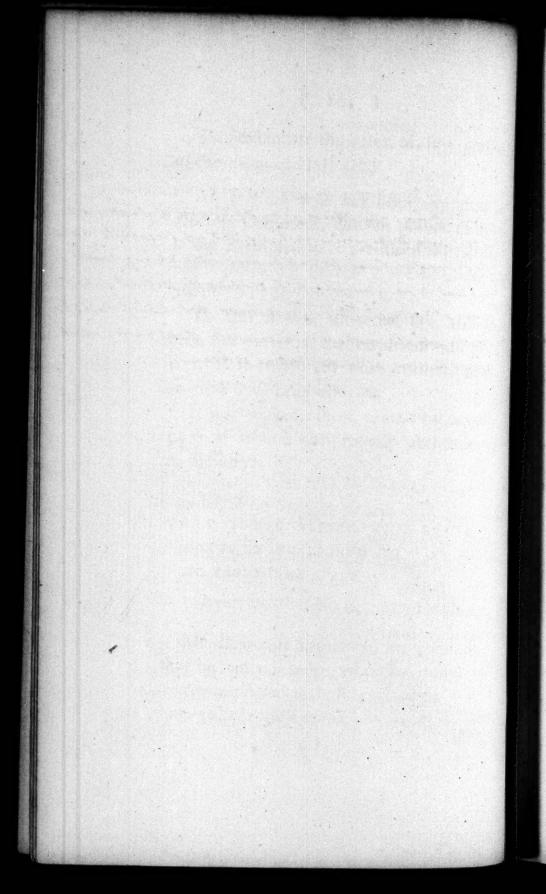
Moved,

THAT THE CONSIDERATION OF THOSE VOTES BE POSTPONED TO GIVE TIME TO PROVE THE WILL.

Ayes 12, No 1, Mr. Finch.

Mr. Bearcroft acquainted the committee, that he had no more witnesses ready, and therefore prayed that the committee would indulge him till Thursday to give them time The Will alluded to, was that of J. — Compton.

Mr Derose the Officer from the Commons who attended with it said wills were sometimes, the not frequently left in the Presentive Court for safe Pustedy without being proved, but that it was generally in Cases like the present, where they were not worth proving. He observed that in such Case, the Proctor who lodges them may demand them back, which cannot be done after the Will is proved.



to come to town—that the difficulty of procuring post-horses had delayed them some time—and that the sitting member, by giving up his objections to many votes he had not expected, had run him out sooner than he expected to be.

Mr. Chester's counsel observed, that in so doing they had only followed the example of Mr. Berkeley, who had once played them the same trick, by which the sitting member had lost several votes, as the committee would not indulge him with any longer time.

The chairman examined several of the witnesses, who all declared that they had come to town from Glocester in twenty-sive hours, and that there was no difficulty in procuring horses.

The chairman asked of Mr. Bearcrost, what was the number of votes those witnesses would attempt to substantiate? — He answered, about seventy.

He then asked, if any other court in England would have given him such an indulgence?—He said, he could not say that any court would.

He

He then asked, if Mr. Berkeley would pay Mr. Chester's expences of such a delay?

—After some hesitation, Mr. Bearcrost of fered to give Mr. Chester sixty pounds (a sum far short of the real charge which would accrue by the delay).

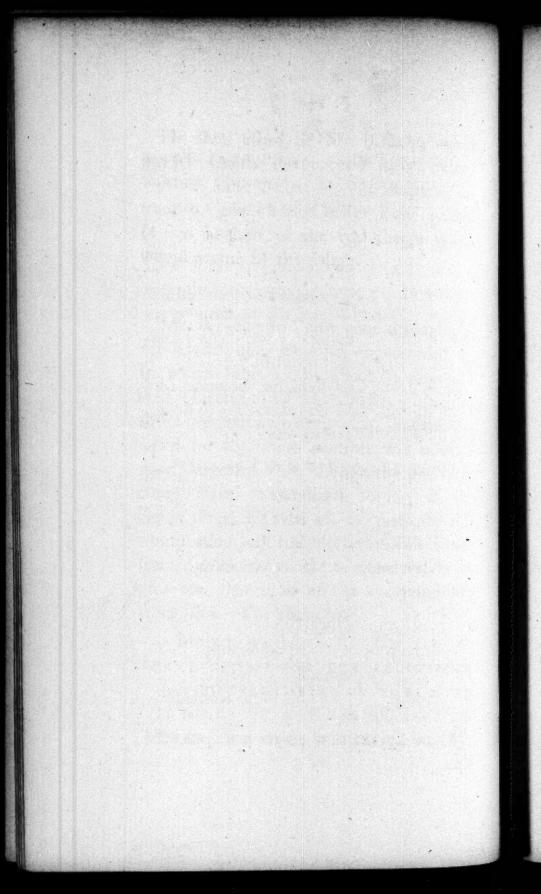
The court was then cleared.

Mr. Berkeley had now gone through eleven booths—four were left unproceeded in, in which four booths about 83 votes had been objected to by Mr. Chester—Many of the committee were of opinion, that the majority for the sitting member was now so much increased, that, though the petitioner could have substantiated seventy of the eighty-three, or even all of them, he still would have lost the election—The whole seemed evidently to create expences, or to give the chance of one of the committee falling sick—The chairman

Moved.

THAT, COUNSEL FOR THE PETITIONER HAVING BEEN CALLED ON TO PROCEED IN HIS CAUSE, BUT HAVING ALLEGED THAT HE HAD NO WITNESSES READY, AND

d and suggest of state of their acceptances. The Control of the State of the -3 and the same agent the post time



AND PRAYING TIME TILL THURSDAY MORNING, THEY BE NOW CALLED ON TO SUM UP THEIR EVIDENCE, PURSUANT TO THE FORMER RESOLUTION.

At the same time observing to the committee, that, if any gentleman thought it premature, he would move the previous question; though, after the unanimous resolve of the preceding day, he did not conceive that any person could do so.

Sir William Cunynghame, however, did move it, but gave no reasons for so doing. The question therefore was,

THAT THIS QUESTION BE NOW PUT.

Ayes 7.

Mr. Phelips,
Mr. Finch,
Mr. Halliday,
Mr. Penruddock,
Mr. Cleveland,
Sir Cecil Wray.

Mr. Powys,

Noes 6.

Mr. Johnstone, Mr. Morant,
Sir W. Cunynghame, Mr. Owen,
Mr. Elwes, Sir Geo. Robinson.

Before the main question was put, the O 3 chair-

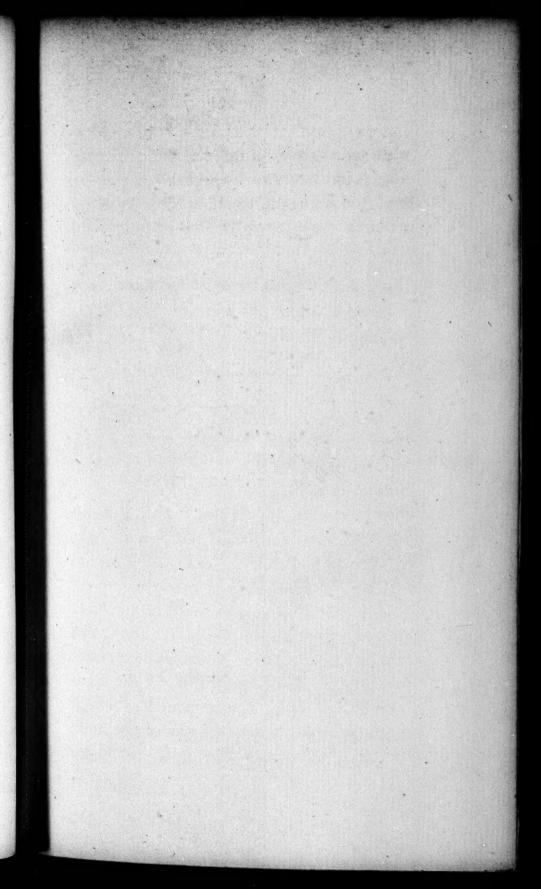
chairman demanded of the committee, if any gentleman could say from his notes, that the bringing up this evidence could make any alteration in the success of the cause?—No one thought it could.

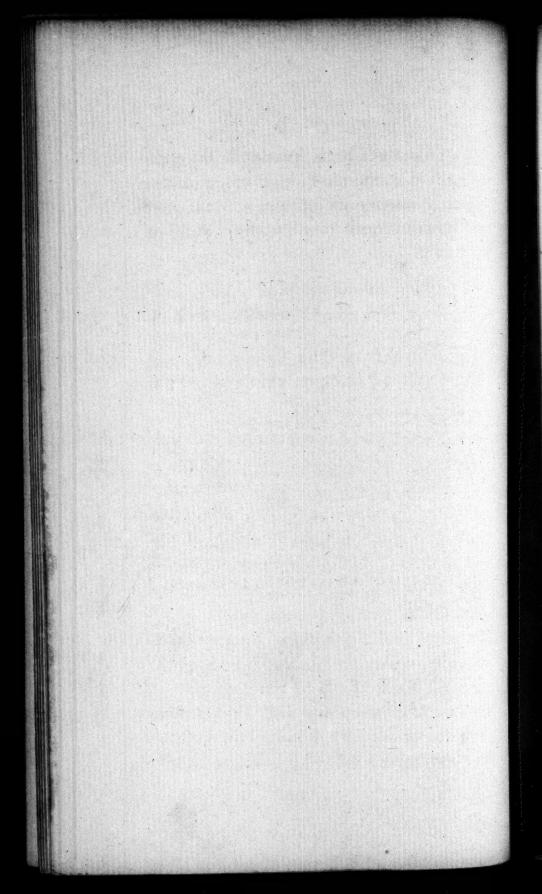
THE MAIN QUESTION WAS THEN PUT, AND CARRIED UNANIMOUSLY.

This resolution having been read to the counsel, Mr. Lee declined any further proceeding, as his witnesses were not ready.

The court was then cleared.—The chairman and Mr. Powys argued for giving a day or two for the members of the committee to inspect their notes, and sum up the numbers of the votes as they now stood; the latter gentleman particularly asking, if every gentleman had done so, as to enable him to declare his opinion of the majority?

Mr. Johnstone and the rest of the committee argued against this delay, saying that the petitioner's counsel had given up the cause—that they had no sort of doubt the majority against him was considerable, though perhaps they could not tell the precise number it consisted of—that a delay could an-





fwer no purpose but a squabble in the committee—and therefore were of opinion to proceed directly to judgment—Mr. Powys and the chairman gave up their idea. It was then

Resolved unanimously,

THAT WILLIAM BROMLEY CHESTER, ESQ. WAS DULY ELECTED TO SERVE AS KNIGHT OF THE SHIRE FOR THE COUNTY OF GLOCESTER.

Resolved unanimously,

THE COMMITTEE, IN JUSTICE TO THE HIGH SHERIFF OF THE COUNTY OF GLOCESTER, DECLARE, THAT THEY HAVE SEEN NO REASON, BY ANY EVIDENCE ADDUCED TO THEM, TO IMPEACH HIS CONDUCT WITH PARTIALITY IN THE DISCHARGE OF HIS DUTY IN TAKING THE POLL.

FINIS.

